

IN THE MATTER OF THE APPLICATION * IN THE
OF OLDE MILL ESTATES, INC. FOR *
VARIANCES ON PROPERTY LOCATED ON *
THE NORTH SIDE WINANNS ROAD, * CIRCUIT COURT
119 FT. WEST ADRIANNE WAY *
(3644 Winans Road) *
2ND ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
FOR BALTIMORE COUNTY *
Plaintiff *
CASE NO.: 93CV4186 51/268 *
ZONING CASE NO.: 92-373-A * * * * *

**MOTION TO ALTER OR AMEND JUDGMENT
AND REQUEST FOR HEARING**

Olde Mill Estates, Inc., Appellant, by Benjamin Bronstein and Evans, George and Bronstein, its attorneys, pursuant to Maryland Rule 2-534, moves that the Court alter or amend the Judgment entered in this case on December 23, 1993 and enter a new Judgment thereon, and says:

1. This Court entered a Memorandum Opinion and Judgment affirming the action of the Board of Appeals of Baltimore County in denying a variance requested by Appellant, Olde Mill Estates, Inc. (Olde Mill).

2. In its Opinion and Judgment, the Court places great emphasis on the perceived fact that Olde Mill had fully built out the development and was seeking an additional lot. This conclusion is not supported by the evidence in the record.

An original subdivision plat was filed in 1979. This concededly did not show the lot in question as a building lot. In 1984, however, a re-subdivision was performed -- in its re-

subdivision, a number of lots were reconfigured and the lot in question was designated as a lot of record. (Petitioner's Exhibit 7) For almost a decade, then, Lot E-20 has been a lot of record. More importantly, at the time of the re-subdivision in 1984, the total density (number of housing units) was set at 401. This 401 total included Lot E-20. Olde Mill is not seeking another unit (for a total of 402); denial of the variance denies Olde Mill one of the lots shown on the re-subdivision plat filed in 1984.

3. The variance sought in this case is not a variance permitting the lot in question to be less wide than the adjoining lots. The Board of Appeals was in error in concluding that the "total of the side yard variance requested equals 40 ft." (Board of Appeals Opinion, page 2) the testimony and documentary evidence in the file before the Board of Appeals established beyond cavil that Appellant was seeking only a variance to permit a minimum lot width of 50 feet in lieu of the required 70 feet. This is a total variance of only 20 feet, not the 40 feet referred to by the Board of Appeals.

4. Section 102.1 of the BCZR expressly provides that "no land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations"

Baltimore County has historically permitted side oriented houses. The Comprehensive Manual of Development Policies V.B.6.a. and V.B.6.b. permit a side oriented house. Clearly zoning deals with land use not architecture nor is there a requirement by the

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rules of the Zoning Commissioner to illustrate architecture on the site plan - See Rule 2 attached.

Section 307 of the BCZR governs variances, and provides that variances may be granted "where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship". Any such variance shall be granted if "in strict harmony with the spirit and intent of said height, area, off street parking, or sign regulations, and only in such a manner as to grant relief without injury to public health, safety and general welfare". There is absolutely no requirement under Section 307 that aesthetics are a proper consideration (much less determinative) in connection with the grant or denial of a requested variance.

The case of Daihl v. County Board of Appeals, 258 Md. 157, 265 A.2d 227 (1970) is not dispositive of the instant case. Daihl involved two different uses of property, one residential, one non-residential. This is not the situation in the case at bar. All that Appellant seeks is a variance in minimum lot width of 20 feet. There is no basis under the Baltimore County Zoning Code to deny that requested variance on the basis of aesthetic considerations. Indeed, Baltimore County permits the front door of a house to face the side of a lot -- this, however, is a design, not zoning, issue. Since aesthetics are not a proper basis for denying the requested variance, the Board of Appeals erred in failing to grant the requested variance.

5. Contrary to the apparent assumption of the Board of

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Appeals in this Court, this is not a situation in which a developer fully "builds out" a development, and then seeks to create an additional, unplanned lot out of a "tag end" parcel. Lot E-20 has been shown as a lot of record, on a subdivision plat approved by and recorded with Baltimore County, for over a decade. Lot E-20 was included in the calculation of the number of dwelling units which could be built in the development in question. Denial of the variance on this ground is improper, and denies Olde Mill any beneficial use of this parcel. Denial of the variance defeats Olde Mill's "investment-backed expectation", and results in a deprivation of Olde Mill's property by denying Olde Mill any productive use of the property.

WHEREFORE, Olde Mill, Inc., Appellant, requests the Court to strike the Judgment previously entered in this case and enter a new Judgment reversing the action of the Board of Appeals in directing the requested variances be granted.

EVANS, GEORGE AND BRONSTEIN

[Signature]
Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

REQUEST FOR HEARING

Plaintiff, Olde Mill Estates, Inc., requests that a hearing be had on this Motion to Alter or Amend Judgment.

[Signature]
Benjamin Bronstein

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 6 day of December, 1994, a copy of the foregoing Motion to Amend Judgment was mailed, postage pre-paid to Michael L. Snyder, Esquire, 400 Allegheny Avenue, Towson, Maryland 21204, counsel for Walter R. Kirk; William Bealove, 4272 Merry Ridge Drive, Randallstown, Maryland 21133; and Board of Appeals for Baltimore County, Room 49, Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

[Signature]
Benjamin Bronstein

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APPENDIX E

**RULES OF PRACTICE AND PROCEDURE
OF THE
ZONING COMMISSIONER OF BALTIMORE COUNTY¹⁵**

The following rules and regulations are prescribed under the provisions of Subsection 500.8, Baltimore County Zoning Regulations, 1955:

RULE 1

Locations and Times of Hearings--In General

Hearings shall be held in the County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, Monday through Friday. (The times for hearings on petitions will be set in accordance with Sections 22-22 and 22-23 of the Baltimore County Code 1968, as amended by Bills No. 72, 1969, and No. 42, 1970. ¹⁶) Special sessions of the Zoning Commissioner for any and all authorized purposes may be held at such times and places as the Zoning Commissioner may direct.

RULE 2

Petitions and Preliminary Review

- Acceptance. On receiving a petition, the Zoning Commissioner will refer it to the office staff and Zoning Plans Advisory Committee (see Section C, below) for examination and comment. If it is found to be in accordance with these rules, with the Baltimore County Code, with the Baltimore County Zoning Regulations, and with all reasonable requirements of the Committee, the Zoning Commissioner will accept the petition for filing and so notify the petitioner by letter. If it does not conform, the petitioner will be advised of the defects which must be corrected before the petition will be accepted for filing.
- Form, contents, and accompanying documentation
 - Any petition to be accepted for filing must be on the form supplied by the Zoning Commissioner.
 - The petition shall be submitted in triplicate, and each copy shall be signed by the petitioner(s). All information on the petition other than the printed impression and the signature(s) shall be typewritten.

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- While zoning-office personnel will assist the person filing the petition in interpreting those provisions of the Baltimore County Zoning Regulations applicable to the petitioner's case, the final wording of the petitioner's request as set forth on the petition form shall be the responsibility of the petitioner or his legally authorized representative.
- The petition must be accompanied by 10 copies of a surveyor's plat, 7 copies of a surveyor's description, and 1 copy of a reproducible location plan.
- The surveyor's plat must be drawn at an engineering scale (whereby each inch on the plat represents an actual dimension of 10 feet or an even multiple thereof) which, in the Zoning Commissioner's judgement, is an appropriate scale in relation to the area covered and the information shown. The following must be shown on the surveyor's plat:
 - North arrow
 - Scale
 - Identification of Election District
 - Outline of each parcel under petition, in heavy lines
 - Zoning of each such parcel and of adjacent properties
 - Name of any present or prospective subdivision within which any property shown on the plat may be situated, and name of any adjacent subdivision
 - Metes and bounds of each such parcel (dimensions, bearings, etc., of boundaries)
 - Name of every street adjoining each such parcel, and distance along at least one such street to nearest intersecting street
 - Existing and proposed widths of right of way of each bounding street, and width of any right of way proposed to be established within each such parcel
 - Existing topography and topography as proposed, if such information is required by the Office of Planning and Zoning

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- Existing and proposed widths and types of paving of any street within each such parcel
- Location and width of any proposed entrance on each such parcel; locations and widths of existing entrances
- Use(s), dimensions, and location of any existing building on each such parcel
- Use(s), dimensions, and location of any proposed building or addition on each such parcel, and proposed use(s) of any existing building if its use is to be changed. (Note: Any building without a setback on any side must meet special building-code and fire-code requirements with regard to type of construction, windows, etc.)
- In cases where yard setbacks or areas are to be determined, the locations of all principal buildings within a distance of at least 200 feet from each joint side property line
- "Height tent", in cases where maximum height is determined by such means
- Residential density and types of dwelling units
EXAMPLE--

Existing zoning	D.R. 5.5
Proposed zoning	D.R. 16
Gross area	10 acres
Permitted density	16 density units/acre
Maximum number of density units permitted	160

Types of dwelling units and "design" density--

Dwelling-unit type	Number	Density units
Efficiency	80	40
1-bedroom	80	60
2-bedroom	20	20
3+ bedroom	14	21
Totals	194	141


"Design" density 19.4 DU/acre 14.1 DnU/acre

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and S. Canell 4/10/86
PLANNING DATE
4/11/86
COMMISSIONER DATE

TABULATION	SECTION 1	SECTION 2	SECTION 3	SECTION 4	SECTION 5	SECTION 6	TOTAL
GROSS AREA	30.25 AC.	15.10 AC.	17.40 AC.	17.25 AC.	75.25 AC.	20.25 AC.	176.50 AC.
EA ZONING	DR - 5-20.918 AC. DR - 2-9.93 AC.	DR - 35 NONE DR - 2-15.10 AC.	DR - 35 NONE DR - 2-10.40 AC.	DR - 35 NONE DR - 2-17.83 AC.	DR - 2-75.25 AC.		DR - 35.25 AC. DR - 2-18.25 AC.
DWELLING UNITS ALLOWED							400.50
DWELLING UNITS PROPOSED	85	53	44	48	98	72	400
LOCAL OPEN SPACE REQUIRED							5.97 AC.
LOCAL OPEN SPACE PROPOSED	5.942 AC.	*1.611-D. 0.075 AC.	5.724 AC.	13.014 AC.	17.753 AC.	1.207 AC.	53.65 AC.
PARKING SPACES REQUIRED	70	106	88	93	186	142	685
PARKING SPACES PROVIDED	70	106	91	106	208	144	617

ENCLOSURES SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. ACCESSORY STRUCTURES, FENCES AND PROJECTIONS TO VARIOUS TYPES ARE NOT REQUESTED OUTSIDE THE ENCLOSURE, BUT IN CONJUNCTION WITH THE SECTIONS AGS AND B-1 OF THE BIRMINGHAM COUNTY ZONING REGULATIONS (SUBJECT TO COVENANTS AND APPLICABLE BUILDING PERMITS.)

1. BUILDING ENVELOPES SHOWN THUSLY: 
2. ALL STREETS SHOWN HEREON ARE INTENDED TO BE DEDICATED FOR P.V.C. USE.
3. A NON-RESIDENTIAL TRANSITION AREA THERE SHALL BE NO YARDS AT ENDS OF DWELLINGS IF THE RESPECTIVE DWELLINGS SHOWN ARE LESS THAN 40' APART.
4. LANDSCAPE PLAN WILL BE REVIEWED AND APPROVED BY THE OFFICE OF PLANNING AND ZONING PRIOR TO THE RELEASE OF ANY BUILDING PERMITS.

- * THE LOCAL OPEN SPACE IS TO BE DEDICATED TO BALTIMORE COUNTY
- * TRASH IS TO BE COLLECTED WEEKLY BY BALTIMORE COUNTY
- * ALL PARKING PADS AND DRIVEWAYS WILL BE SURFED WITH A CURBLESS ALL PURPOSE ASPHALT OR MAINTAIN OF CONCRETE

- THE EXACT LOCATION OF CURB CUTS FOR DRIVEWAYS OR PARKING SPACE
ENTRANCES ARE TO BE DETERMINED BY OWNER WHEN EXACT BUILDING
MODELS BECOME AVAILABLE BUT PRIOR TO INSTALLATION OF STREET CURBS

- ALL PARKING SPACES WILL BE A MINIMUM OF 9' x 6'
ALL REAR YARDS ARE TO BE 300 SQ FT MINIMUM. THE MINIMUM DEPTH OF
THE CONTIGUOUS AREA IS 15'. COVERED AREAS SUCH AS PORCHES CAN NOT
BE CALCULATED AS 15' x 15' AREA.

- NO BRACING WILL BE DONE BY THE OWNER OUTSIDE OF THE BUILDING ENVELOPES OR OUTSIDE THE ROAD BEDS EXCEPT AS SHOWN - BROWN

- ALL LIGHTING STRUCTURES TO BE 10-FOOT CIRCLED AND FROM THE DWELLING UNITS AND TO HAVE MERCURY VAPOR BULBS

- WHERE PEDESTRIAN WALKWAYS ARE REQUIRED BETWEEN LOTS FOR ACCESS OR EGRESS TO LOTS THEY SHALL CONSIST OF A 6' WALK AND A 4' PAVING STRIP OR SHALL BE THE DEVELOPERS FULL RESPONSIBILITY TO THE GRADE OF THE ACCESS STRIP. (SEE PAGE 10)

1. ZONED ^{FOR} DR 2 - 196 39% AC
GROSS AREA OF TRACT - 73.86 AC
DR 2 - 36 75 AC

- NUMBER OF DWELLING UNITS ALLOWED: DR 2 = 96395 = 52.79
DR 35 = 3679 = 2.77
TOTAL = 40.56

2. TOTAL NUMBER OF DWELLING UNITS PROPOSED 400

- 2 NUMBER OF TOWNHOUSE LOTS PROPOSED 128

- 3 LOCAL OPEN SPACE PROVIDED: 72,801

- PARKING CALCULATIONS - REQUIRED: 272 SF LOTS \times 2 = 544
128 TM UNITS \times 2 = 256

- 125 14 UNITS x 2 = 250
TOTAL 500
PROVIDED: (10 x 186) = 827

- PRESENT USE: NONE (WOODS)

- PROPOSED USE: SINGLE FAMILY & TOWNHOUSE UNITS

- WATERSHED No 27
- PUBLIC WATER AND SEWER ARE AVAILABLE

- PUBLIC WATER AND SEWER ARE AVAILABLE
- THE FORMAL IRREVOCABLE OFFERS OF DEDICATION HAVE BEEN MADE

- PANHANDLE DRIVES WILL BE MAINTAINED BY THE OWNERS OF THE PROPERTIES SERVED

- S.W.M. FOR THIS SITE HAS BEEN WAIVED - SEE LETTER DATED 12/9 '79

- PROPOSED GRADING WILL BE LIMITED TO THE HOUSE & DRIVEWAY
 DRIVEWAY & SUCH AREAS IMMEDIATELY ADJACENT AS REQUIRED TO
 MAINTAIN POSITIVE DRAINAGE

- ALL RIGHT-OF-WAYS, EASEMENTS, RESERVATIONS, FLOOD PLAINS, ETC
TO BE DEDICATED TO BALTIMORE COUNTY

- OWN HEREON ARE RESERVED UNTO THE DEVELOPER AND A

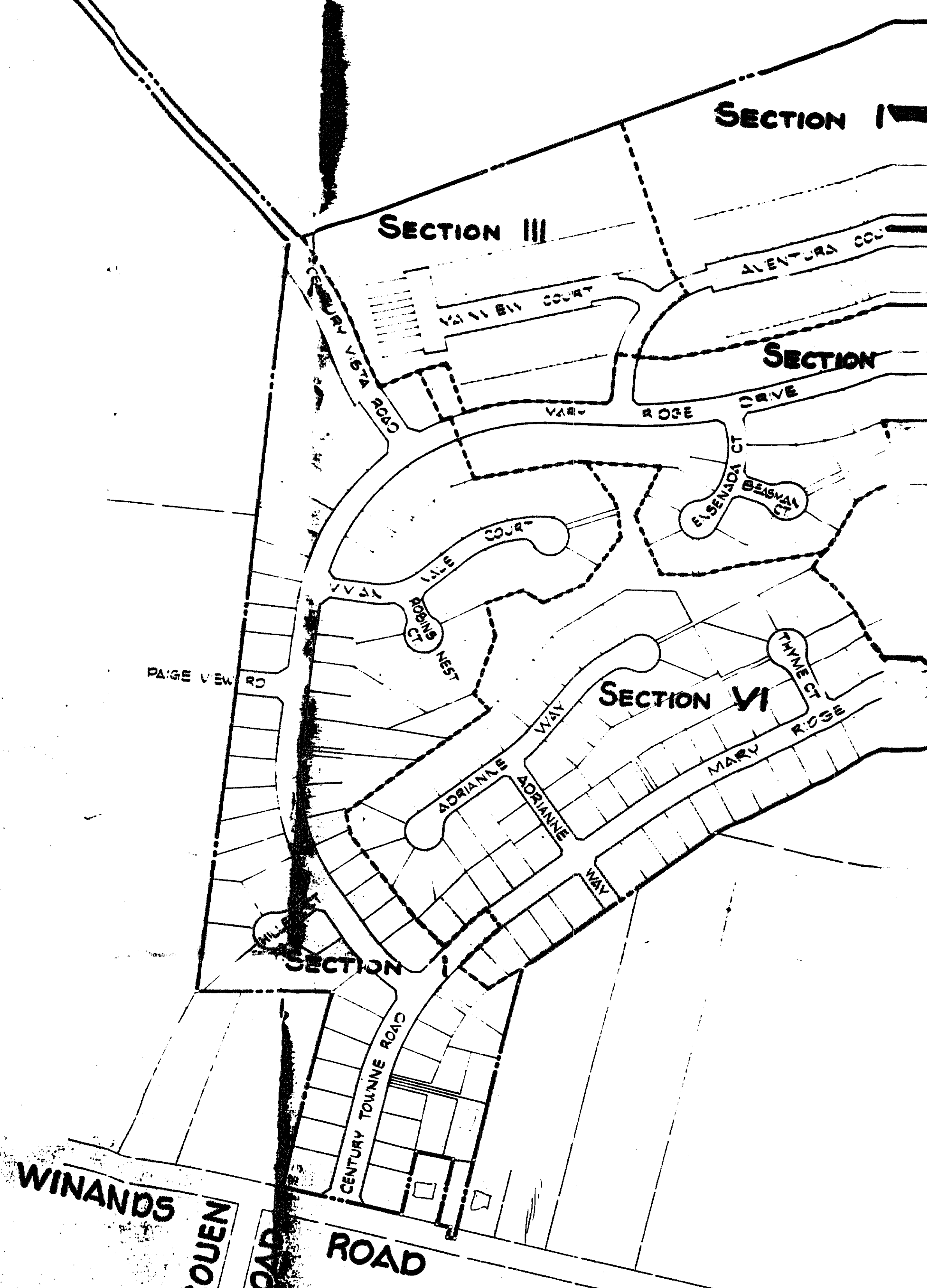
- ...RESERVED UNTO THE DEVELOPER AND A
DEVELOPER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL
SAYED AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND AT

- DATE OF CRG APPROVAL: 6/18/85

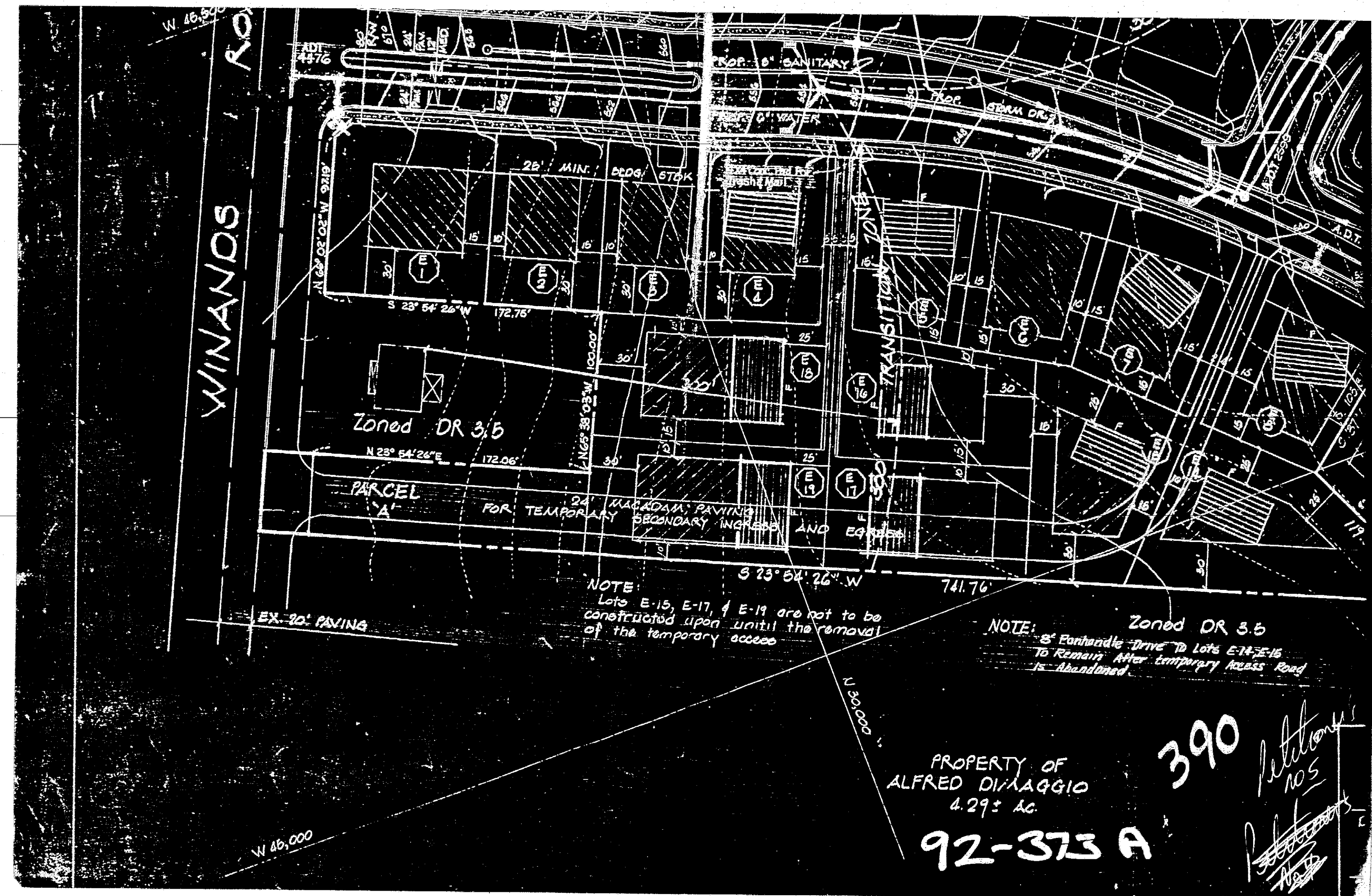
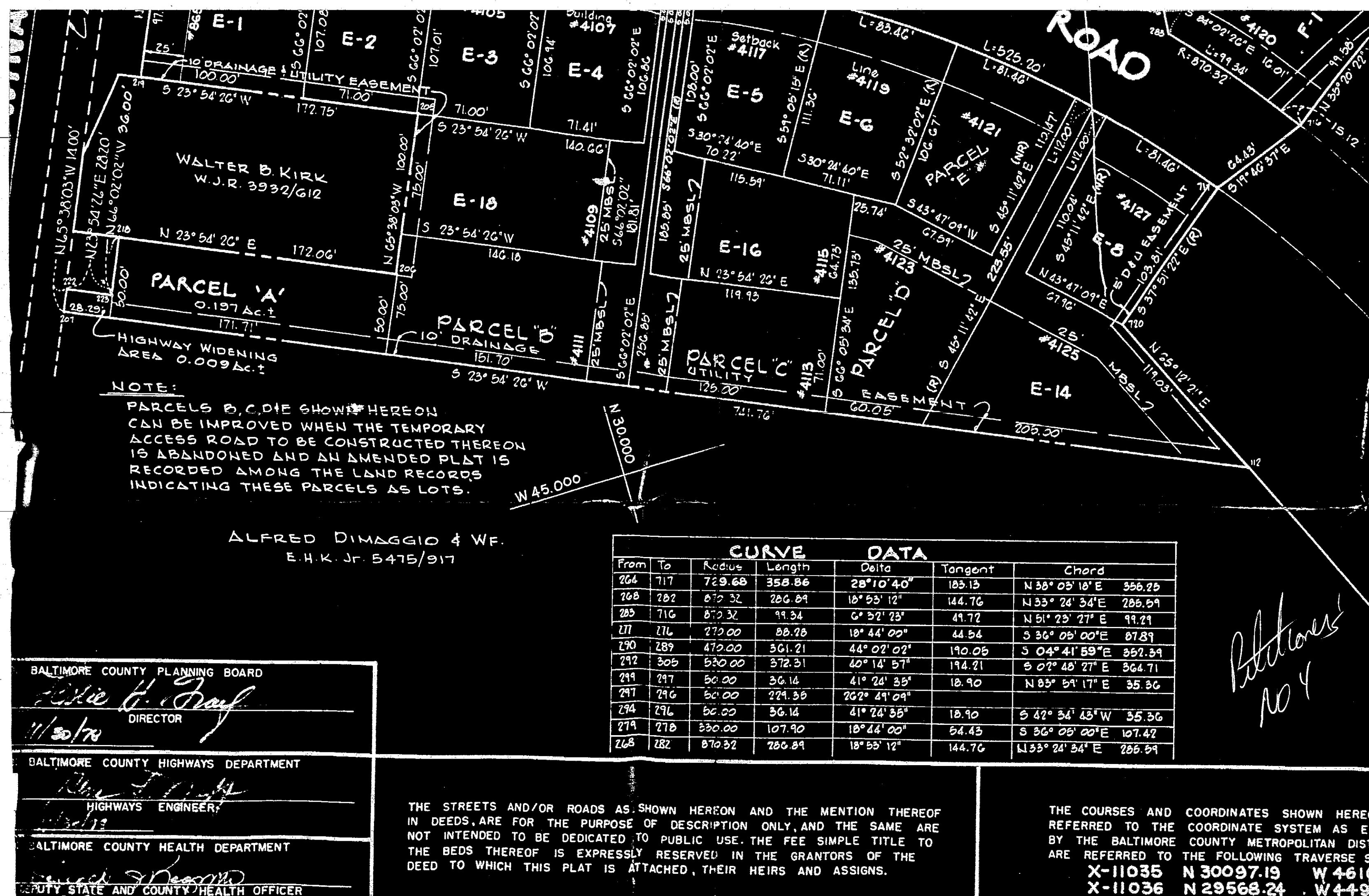
- SUB SEWER SHED #65 MIDDLE GWYNNS FALLS
CENSUS TRACT #402601

- CENSUS TRACT # 402001
 MURKINMANIC DISTRICT - 2-C2

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Prot. Ex. 4



- r. Offstreet parking information--parking-area locations and layouts, parking-space sizes, required number of spaces, number of spaces to be provided, paving type and construction, size and type of screening, and type, direction, and height of lighting

PARTIAL EXAMPLE (two-story apartment-office building in D.R. 16 zone)--

First-floor use	offices
Total floor area	6000 sq. ft.
Number of spaces required	6000 = 20
	300
Number of spaces provided	25
Second-floor use	apartments
Number of units proposed	12 density units
Number of residential spaces required	1.53 x 12 = 18.36
Number of residential spaces provided	19
Total number of spaces required	39
Total number of spaces provided	44

- s. Locations of streams or drainage courses on or within 50 feet of property under petition

- t. Utilities--locations and sizes of existing water and sewer lines at site, or if water and/or sewer lines are not at the site, the locations and sizes of the nearest usable lines and their distances from the site, with the proper Baltimore County utility-drawing number listed. (If desired, these data may be indicated on the location plan, described below, rather than on the surveyor's plat.)

- u. Fire-fighting facilities--locations of fire hydrants. (Hydrant spacing must conform to the requirements of the Department of Public Works and the Fire Department.)

6. The location plan must be prepared by the surveyor, must be drawn to a scale of 1"=200' or 1"=1000', and must show the following:

- a. North arrow
b. Scale

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2. Outline of each parcel under petition

- d. All existing and proposed motorways in the vicinity of the property under petition

- e. Locations of sewer and/or water lines and distances to property, as required

- f. Approximate sizes and locations of school and church sites or sites of other landmarks in the vicinity of the property

7. Plats must be trimmed to a neat 8 1/2" x 11", or, where larger prints are necessary, they must be folded to that size. They must be clear and the lettering, distinct.

C. Zoning Plans Advisory Committee

1. For the purposes of these rules, the "joint zoning advisory committee" cited in Subsection 22-22(i) of the Baltimore County code 1968 as amended by Bills No. 72, 1969, and No. 42, 1970, is termed the "Zoning Plans Advisory Committee".

2. It is the primary function of the Zoning Plans Advisory Committee to prepare written comments regarding possible conflicts or problems, or the absence of conflicts or problems, relative to developments as proposed by petitioners.

3. The Committee shall consist of responsible representatives of the following officials and agencies:

Buildings Engineer
Department of Education
Department of Health
Department of Public Works
Department of Traffic Engineering
Fire Department
Industrial Development Commission
Project and Development Planning Division, Office of Planning and Zoning
State Highway Administration
Zoning Commissioner

The Chairman of the Committee shall be the representative of the Zoning Commissioner. The Chairman is authorized to request comments from any governmental agency not represented on the Committee and to invite

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BAL/Case/91.05.95

IN THE MATTER OF THE APPLICATION * IN THE
OF OLDE MILL ESTATES, INC. FOR *
VARIANCES ON PROPERTY LOCATED ON *
THE NORTH SIDE WINANDS ROAD, *
119 FT. WEST ADRIANNE WAY * CIRCUIT COURT
(8644 Winands Road) *
2ND ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
OLDE MILL ESTATES, INC. * FOR BALTIMORE COUNTY

Plaintiff

ZONING CASE NO.: 92-373-A * CASE NO.: 93CV4186 51/268
* * * * *

ORDER

Upon consideration of the Motion to Alter or Amend Judgment filed herein by Olde Mill Estates, Inc., Appellant, response thereto, if any, and other matters of record, it is this _____ day of _____, 1994, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Board of Appeals denying Appellant an area of variance for Lot E-20 in denying an amendment for the final development plan be reversed, and that this matter is remanded to the Board for entry of an Order granting the area variance for Lot E-20 and directing amendment of the final development plan.

Judge

92-373-A /Olde Mill Estates, Inc.
C. AFFIRMS CBA
(174/94) John F. Fader II, J.

IN THE MATTER OF THE APPLICATION * IN THE
OF OLDE MILL ESTATES, INC. FOR *
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119 FT. WEST ADRIANNE WAY * CIRCUIT COURT
(8644 Winands Road) *
2ND ELECTION DISTRICT *
3RD COUNCILMANIC DISTRICT *
OLDE MILL ESTATES, INC. * FOR BALTIMORE COUNTY

Plaintiff

ZONING CASE NO. 92-373-A * CASE NO. 93 cv 4186
* * * * *

MEMORANDUM OPINION AND JUDGMENT

This court affirms the Board of Appeals denying an area zoning variance to Olde Mill Estates, Inc. (Olde Mill). The decision by the Board of Appeals denying the variance to build a home on a vacant lot is "fairly debatable." Therefore, by Maryland law, this court in review, is required to affirm that decision. Red Roof Inns v. People's Counsel, 96 Md. App. 219, 223, 624 A.2d 1281 (1993).

A.

(The Property)

The subject property for which the variance is sought is known as 8644 Winands Road. It is a lot 50 ft. wide and approximately 172 ft. long. The lot provided vehicular access for heavy equipment during construction of Olde Mill Estates subdivision. Now that the development of the subdivision is

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Copy sent per Judge Toole

substantially completed, Olde Mill wishes to use this parcel to build a dwelling of 50 ft. deep and 25 ft. wide. The parcel is lot E20 in the subdivision which is located on the north side of Winands Road. The lots in the subdivision are zoned Density Residential, 3.5 dwelling units per acre ("DR3.5").

Olde Mill petitioned for a variance from Section 1B01.2.c. of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a minimum lot width of 50ft. in lieu of the required 70 ft., and to amend the Final Development Plan for Olde Mill Estates subdivision to create a building lot. The Zoning Commissioner denied the variance on 8/18/92. (See findings of Fact and Conclusions of Law of Zoning Commissioner in Case No. 92-373-A.) A Motion for Reconsideration filed by Olde Mill was denied by the Commissioner. (See Order in Response to Motion for Reconsideration in Case No. 92-373-A, filed 9/17/92).

If built, the side of the house would actually front Winands Road. The protestants own properties in and around Olde Mill Estates subdivision.¹ Two lot owners whose properties are situated on either side of lot E20, own parcels almost double in width to the lot in question, and have improved their lots with houses which front Winands Road. These neighboring parcels are not part of Olde Mill Estates subdivision and were improved long before the development of the subdivision.

¹ The protestants were represented by counsel before the Zoning Commissioner and the Board of Appeals. However, the protestants did not file a response to Olde Mill's appeal to the Circuit Court of Baltimore County. Therefore, the court did not permit protestants to participate at the appellate hearing because they lacked standing under Maryland Rule 89.

On appeal, the County Board of Appeals for Baltimore County (Board) denied the variance finding that a strict application of the zoning regulations would not cause practical difficulty or undue hardship to Olde Mill. Further, the Board held that a variance would result in construction which would be detrimental to the welfare of the community.

Olde Mill contends on appeal to this court that:

1. The decision of the Board was based on the improper consideration of whether the proposed construction would be "compatible with the adjoining lots."
2. The conclusions by the Board were wholly unsupported by the evidence and are erroneous as a matter of law because Olde Mill produced sufficient evidence to show that a denial of the variance would result in undue hardship.
3. The Board's denial of a variance results in a taking requiring just compensation.

B.

(Standard of Review)

In reviewing decisions of the zoning authority this court must affirm the holding if it is, in the language of cases, "fairly debatable." The "fairly debatable" standard of review is as follows:

"We have made it quite clear that if the issue before the administrative body is 'fairly debatable,' that is, that its determination involved testimony from which a reasonable man could come to different conclusions, the courts will not substitute their judgment for that of the administrative body, in the absence of an unconstitutional taking of private property for public use without the payment of just compensation." Red Roof Inns v. People's Counsel, supra at 223-224, quoting Art Wood Enters. v. Wiseburg Community Ass'n, 88 Md. App. 723, 727, 596 A.2d 712, cert. denied, 325 Md. 397, 601 A.2d 130 (1992). See also Mayor & City Council of Baltimore v. Bruce, 46 Md. App. 704, 713,

420 A.2d 1272 (1980).

In the words of other Courts, the decision, of the zoning authority "may only be set aside if such decision is arbitrary, illegal, or capricious". Art Wood Enters., supra, quoting Art. 25A, Section 5(U) of the Maryland Code Annotated.

In reviewing the zoning authority's decision this court must consider the evidence contained in the administrative record. Red Roof Inns, supra at 224. In Gray v. Anne Arundel County, 73 Md. App., 301, 533 A.2d 1325 (1987), the Court applied a three step analysis in its review of an appeal of agency decisions:

1. First, the reviewing court must determine whether the agency recognized and applied correctly principles of law governing the case.
2. If the agency did not err in its determination or interpretation of the applicable law, the reviewing court next examines the agency's factual findings to determine if they are supported by substantial evidence.
3. Finally, the reviewing court must examine how the agency applied the law to the facts. Where a mixed question of law and fact exists, great deference must be accorded to the agency. The test is whether a reasoning mind could have reasonably reached the conclusion reached by the agency consistent with the proper application of controlling law. Gray v. Anne Arundel County, supra at 308-09.

C.

(The Law of Variance)

To build on lot E20, Olde Mill needs a variance from the legally mandated 70 ft. lot width requirement. Variances can only be obtained in accord with the Baltimore County Zoning Code (B.C.Z.R.).

The authority of the Zoning Commissioner to grant a variance

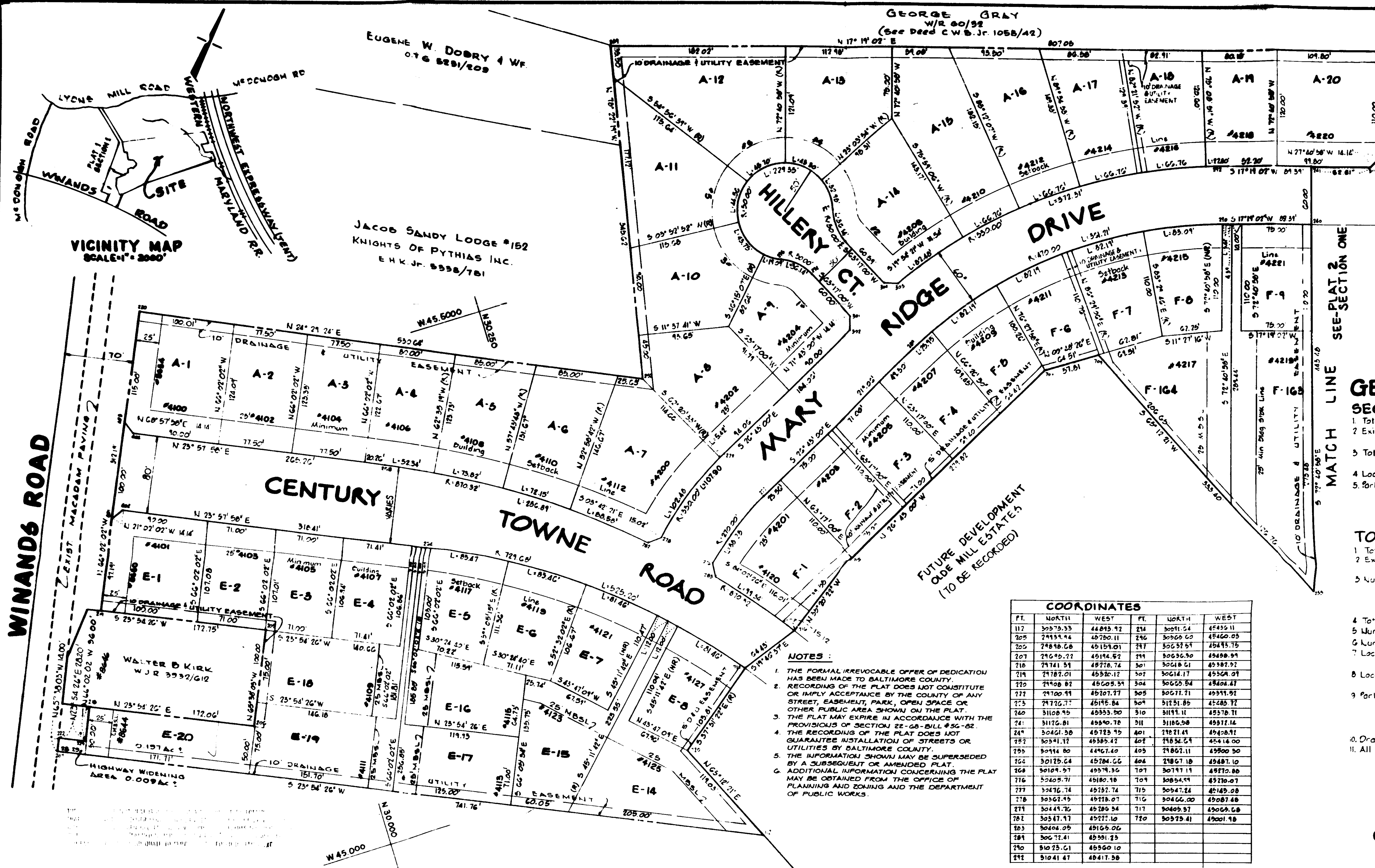
is stated in Art. 3, Exceptions to Height and Area Requirements, Section 307.1, B.C.Z.R. 1992:

The Zoning Commissioners of Baltimore County and the Board of Appeals... shall have... the power to grant variances from height and area regulations, ... only in cases where strict compliance with the Zoning Regulations in Baltimore County would result in practical difficulty or unreasonable hardships. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said... regulations, and only in such manner as to grant relief without substantial injury to public health, safety and general welfare..." (Emphasis added)

Variances are to be granted "only ... where strict compliance ... would result in practical difficulty or unreasonable hardships." To satisfy this threshold and obtain its variance, Olde Mill argued that strict application of the setback requirements renders the lot completely unbuildable. Because no dwelling unit can be built on the lot under existing setback requirements, there is no use for the lot in accordance with its residential zoning restriction. Olde Mill argued that the evidence presented to the Board demonstrates that a denial of the variance results in an unconstitutional taking of the property by precluding its use for any purpose under the zoning laws.²

According to decisions by Maryland appellate Courts, the aim of a zoning ordinance is to prevent exceptions as much as possible. Carney v. City of Balto. 201 Md. 130, 137, 93 A.2d 74

² In support of its constitutional taking claim Olde Mill cites the following: Anderson v. Board of Appeals Town of Chesapeake Beach, 22 Md. App. 28, 322 A.2d 220 (1974); Poe v. City of Baltimore, 241 Md. 303, 216 A.2d 707 (1966); Frankel v. City of Baltimore, 223 Md. 97, 162 A.2d 447 (1960).



PLAT 2 SECTION ONE
OLDE MILL ESTATE 6

HIGHWAY AND HIGHWAY WIDENING, SLOPE DRAINAGE AND UTILITY EASEMENTS SHOWN HEREON ARE RESERVED UNTO THE DEVELOPER AND ARE HEREBY OFFERED FOR DEDICATION TO BALTIMORE COUNTY, MARYLAND. THE DEVELOPER, HIS PERSONAL REPRESENTATIVES AND ASSIGNS SHALL CONVEY SAID AREAS BY DEED TO BALTIMORE COUNTY, MARYLAND AT NO COST.

GENERAL NOTES

- SECTION ONE
1. Total Area of Section One (Gross) 30.85 Acres ±
 2. Existing Zoning DR 3.5 20.98 Acres ±
 3. Total Number of Lots in Section One 9.93 Acres ±
 4. Local Open Space Provided 0.442 Acres ±
 5. Parking Calculations: Required: 85 ± 170
Provided: 170

TOTAL TRACT

1. Total Area of Tract 173.188 ± AC.
2. Existing Zoning DR 3.5 36.781 ± AC
DR 2 186.982 AC.
3. Number of Density Units Allowed
DR 3.5 = 36.791 = 128.77
DR 2 = 156.345 = 272.79
Total 401.56
4. Total Number of Density Units Proposed: 401
5. Number of Single Family Lots Proposed: 272
6. Number of Townhouse Units Proposed: 129
7. Local Open Space Required: DR 3.5 - 36.791 AC = 5% = 1.10 AC
DR 2 - None Required 80 AC ±
8. Local Open Space Provided 80 AC ±
9. Parking Calculations - Required 272 of Lots = 2 ± 644
129 TH Units = 175 ± 226
Total 170
Provided: 170 ± 2 ± Ea
10. Drainage Area Lower Patapsco
11. All Lots Are For Sale

COORDINATES					
PT.	NORTH	WEST	PT.	NORTH	WEST
117	29739.33	44845.92	214	30611.24	45492.11
205	29159.44	45750.11	246	30656.60	45460.03
222	29818.68	45153.01	247	30653.51	45445.75
207	29642.22	45114.62	248	30656.30	45498.94
216	29741.51	45778.74	301	30618.61	45387.52
219	29782.01	45320.12	302	30614.17	45384.04
220	29700.82	45605.34	304	30655.54	45404.47
272	29700.11	45107.77	305	30671.71	45391.52
273	29726.77	45195.84	306	31251.85	45285.72
240	31108.95	45553.50	310	31191.11	45378.71
241	31126.81	45590.78	311	31186.58	45372.14
242	30461.58	45715.75	401	29671.61	45428.71
251	30591.11	45585.42	402	29632.64	45414.00
252	30414.80	44967.69	403	29627.11	45390.50
253	30175.64	45784.60	404	29671.18	45487.10
254	30109.97	45574.30	405	30719.11	45170.80
276	32425.71	45180.18	406	30854.54	45270.07
277	32476.74	45232.74	407	30847.34	45149.08
278	30362.45	45228.07	408	30805.57	45087.48
279	30441.70	45286.54	409	30805.57	45087.48
280	30672.41	45381.25	410	30873.41	45001.18
281	30672.41	45381.25			
282	31041.47	45941.58			

- NOTES:
1. THE FORMAL IRREVOCABLE OFFER OF DEDICATION HAS BEEN MADE TO BALTIMORE COUNTY.
 2. RECORDING OF THE PLAT DOES NOT CONSTITUTE OR IMPLY ACCEPTANCE BY THE COUNTY OF ANY STREET, EASEMENT, PARK, OPEN SPACE OR OTHER PUBLIC AREA SHOWN ON THE PLAT.
 3. THE PLAT MAY EXPIRE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 22-68-BILL #56-82.
 4. THE RECORDING OF THE PLAT DOES NOT GUARANTEE INSTALLATION OF STREETS OR UTILITIES BY BALTIMORE COUNTY.
 5. THE INFORMATION SHOWN MAY BE SUPERSEDED BY A SUBSEQUENT OR AMENDED PLAT.
 6. ADDITIONAL INFORMATION CONCERNING THE PLAT MAY BE OBTAINED FROM THE OFFICE OF PLANNING AND ZONING AND THE DEPARTMENT OF PUBLIC WORKS.

CURVE DATA			
From	To	Radius	Length
264	265	729.66	358.86
265	266	815.36	282.84
266	267	815.36	282.84
267	268	815.36	282.84
268	269	815.36	282.84
269	270	815.36	282.84
270	271	815.36	282.84
271	272	815.36	282.84
272	273	815.36	282.84
273	274	815.36	282.84
274	275	815.36	282.84
275	276	815.36	282.84
276	277	815.36	282.84
277	278	815.36	282.84
278	279	815.36	282.84
279	280	815.36	282.84
280	281	815.36	282.84
281	282	815.36	282.84

APPROVED: BALTIMORE COUNTY PLANNING BOARD
DATE: 9/26/84
APPROVED: BALTIMORE COUNTY DEPT. OF PUBLIC WORKS
DATE: 9/26/84
APPROVED: BALTIMORE COUNTY HEALTH DEPARTMENT
DATE: 9/26/84

ENK. JR. 51 JULIO 149
REASON FOR 1ST AMENDMENT: PARCELS A.B.C.D.E. CHANGED TO LOTS E-20, E-19, E-17, E-15 & E-7 RESPECTIVELY. THE CONSTRUCTION OF THE MAIN ENTRANCE TO THE SITE (CENTURY TOWNE ROAD) HAS BEEN COMPLETED, AND THE USE OF PARCELS A.B.C.D.E. FOR A TEMPORARY ACCESS ROAD ARE NO LONGER NECESSARY.

SURVEYOR'S CERTIFICATE

I, JAMES M. MAHONEY, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN COMPLIANCE WITH SECTIONS 72A TO 72E, INCLUSIVE, OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION AS ENACTED OR AMENDED BY THE ACTS OF 1945 AND 1947 AND SUBSEQUENT ACTS, IF ANY, AMENDATORY THERE TO.

DATE: 7/26/84

OWNER'S CERTIFICATE

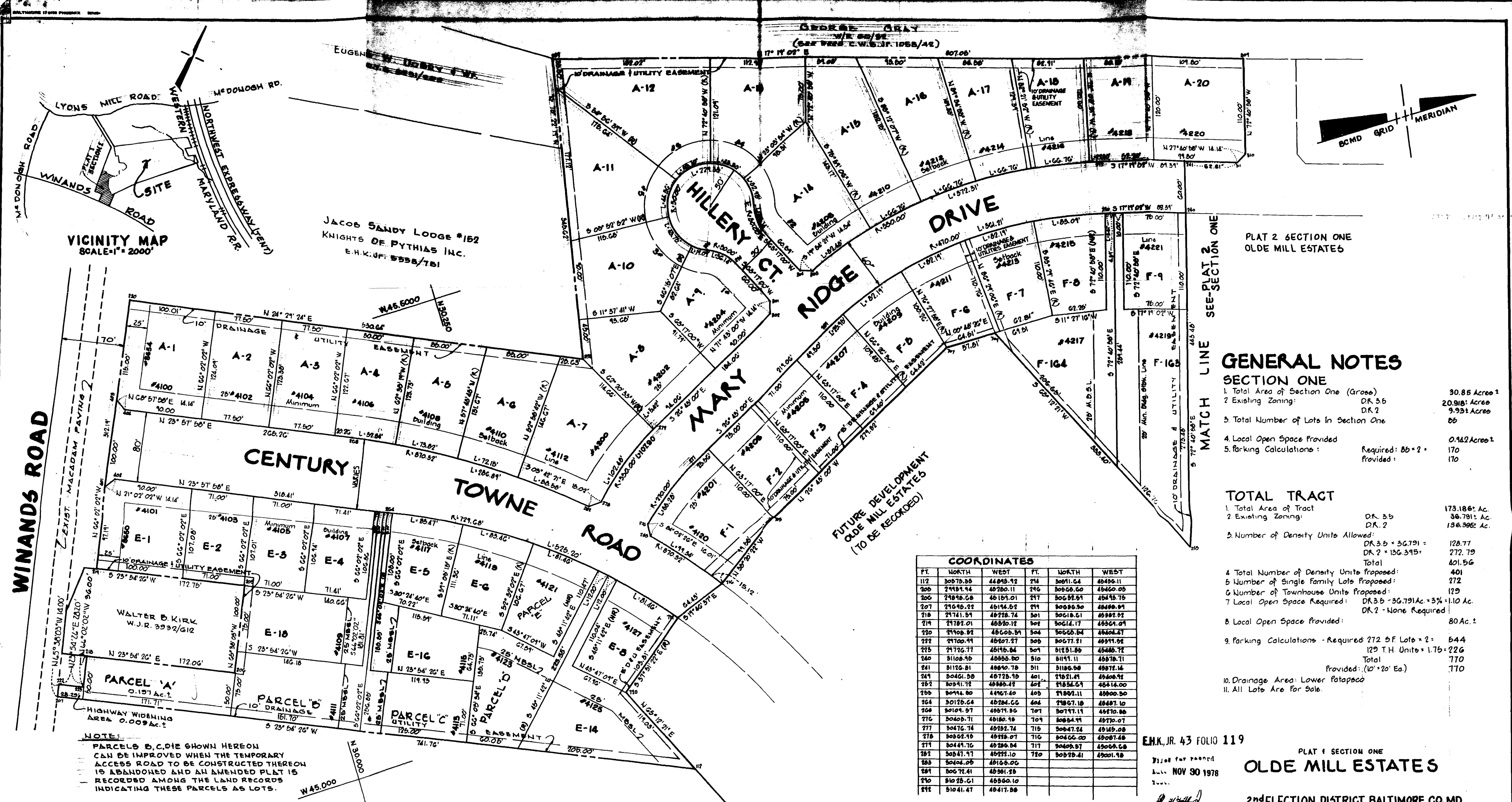
THE REQUIREMENTS OF SECTIONS 72A TO 72E OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION, CHAPTER 106 OF THE ACTS OF 1945, AS AMENDED BY CHAPTERS 84 AND 786 OF THE ACTS OF 1947, AND SUBSEQUENT ACTS IF ANY, AMENDATORY THERETO SO FAR AS THEY CONCERN THE MAKING OF THE PLAT AND SETTING OF THE MARKERS HAVE BEEN COMPLIED WITH.

OLDE MILL ESTATES, INC.
OWNER OF LAND SHOWN HEREON

DATE: 7/26/84

EVANS, HAGAN & HOLDEFER, INC.
SURVEYORS & ENGINEERS
9013 BELAIR ROAD - BALTIMORE, MD 21236
(301) 668-1501

DATE: 7/26/84 SCALE: 1"=50'



GENERAL NOTES
SECTION ONE

- 1. Total Area of Section One (Gross) 30.85 Acres
- 2. Existing Zoning: DR 3.5 20.918 Acres
- 3. Total Number of Lots in Section One 9.931 Acres
- 4. Local Open Space Provided 0.142 Acres
- 5. Parking Calculations: Required: 85 * 2 = 170

TOTAL TRACT

- 1. Total Area of Tract 173.186 Ac.
- 2. Existing Zoning: DR 3.5 36.791 Ac.
- 3. Number of Density Units Allowed: DR 3.5 * 36.791 = 129.77
- 4. Total Number of Density Units Proposed: 129
- 5. Number of Single Family Lots Proposed: 272
- 6. Number of Townhouse Units Proposed: 129
- 7. Local Open Space Required: DR 3.5 - 36.791 Ac. * 3% = 1.10 Ac.
- 8. Local Open Space Provided: 80 Ac.
- 9. Parking Calculations - Required 272 SF Lots * 2 = 544
- 10. Drainage Area: Lower Potomac
- 11. All Lots Are For Sale.

COORDINATES					
PT.	NORTH	WEST	PT.	NORTH	WEST
112	30779.55	44049.12	214	30811.64	44049.11
206	21981.14	40780.11	216	30809.60	44049.09
207	21981.08	40780.01	217	30809.61	44049.08
208	21981.08	40780.01	218	30809.61	44049.08
209	21981.08	40780.01	219	30809.61	44049.08
210	21981.08	40780.01	220	30809.61	44049.08
211	21981.08	40780.01	221	30809.61	44049.08
212	21981.08	40780.01	222	30809.61	44049.08
213	21981.08	40780.01	223	30809.61	44049.08
214	21981.08	40780.01	224	30809.61	44049.08
215	21981.08	40780.01	225	30809.61	44049.08
216	21981.08	40780.01	226	30809.61	44049.08
217	21981.08	40780.01	227	30809.61	44049.08
218	21981.08	40780.01	228	30809.61	44049.08
219	21981.08	40780.01	229	30809.61	44049.08
220	21981.08	40780.01	230	30809.61	44049.08
221	21981.08	40780.01	231	30809.61	44049.08
222	21981.08	40780.01	232	30809.61	44049.08
223	21981.08	40780.01	233	30809.61	44049.08
224	21981.08	40780.01	234	30809.61	44049.08
225	21981.08	40780.01	235	30809.61	44049.08
226	21981.08	40780.01	236	30809.61	44049.08
227	21981.08	40780.01	237	30809.61	44049.08
228	21981.08	40780.01	238	30809.61	44049.08
229	21981.08	40780.01	239	30809.61	44049.08
230	21981.08	40780.01	240	30809.61	44049.08
231	21981.08	40780.01	241	30809.61	44049.08
232	21981.08	40780.01	242	30809.61	44049.08
233	21981.08	40780.01	243	30809.61	44049.08
234	21981.08	40780.01	244	30809.61	44049.08
235	21981.08	40780.01	245	30809.61	44049.08
236	21981.08	40780.01	246	30809.61	44049.08
237	21981.08	40780.01	247	30809.61	44049.08
238	21981.08	40780.01	248	30809.61	44049.08
239	21981.08	40780.01	249	30809.61	44049.08
240	21981.08	40780.01	250	30809.61	44049.08
241	21981.08	40780.01	251	30809.61	44049.08
242	21981.08	40780.01	252	30809.61	44049.08
243	21981.08	40780.01	253	30809.61	44049.08
244	21981.08	40780.01	254	30809.61	44049.08
245	21981.08	40780.01	255	30809.61	44049.08
246	21981.08	40780.01	256	30809.61	44049.08
247	21981.08	40780.01	257	30809.61	44049.08
248	21981.08	40780.01	258	30809.61	44049.08
249	21981.08	40780.01	259	30809.61	44049.08
250	21981.08	40780.01	260	30809.61	44049.08
251	21981.08	40780.01	261	30809.61	44049.08
252	21981.08	40780.01	262	30809.61	44049.08
253	21981.08	40780.01	263	30809.61	44049.08
254	21981.08	40780.01	264	30809.61	44049.08
255	21981.08	40780.01	265	30809.61	44049.08
256	21981.08	40780.01	266	30809.61	44049.08
257	21981.08	40780.01	267	30809.61	44049.08
258	21981.08	40780.01	268	30809.61	44049.08
259	21981.08	40780.01	269	30809.61	44049.08
260	21981.08	40780.01	270	30809.61	44049.08
261	21981.08	40780.01	271	30809.61	44049.08
262	21981.08	40780.01	272	30809.61	44049.08
263	21981.08	40780.01	273	30809.61	44049.08
264	21981.08	40780.01	274	30809.61	44049.08
265	21981.08	40780.01	275	30809.61	44049.08
266	21981.08	40780.01	276	30809.61	44049.08
267	21981.08	40780.01	277	30809.61	44049.08
268	21981.08	40780.01	278	30809.61	44049.08
269	21981.08	40780.01	279	30809.61	44049.08
270	21981.08	40780.01	280	30809.61	44049.08
271	21981.08	40780.01	281	30809.61	44049.08
272	21981.08	40780.01	282	30809.61	44049.08
273	21981.08	40780.01	283	30809.61	44049.08
274	21981.08	40780.01	284	30809.61	44049.08
275	21981.08	40780.01	285	30809.61	44049.08
276	21981.08	40780.01	286	30809.61	44049.08
277	21981.08	40780.01	287	30809.61	44049.08
278	21981.08	40780.01	288	30809.61	44049.08
279	21981.08	40780.01	289	30809.61	44049.08
280	21981.08	40780.01	290	30809.61	44049.08
281	21981.08	40780.01	291	30809.61	44049.08
282	21981.08	40780.01	292	30809.61	44049.08
283	21981.08	40780.01	293	30809.61	44049.08
284	21981.08	40780.01	294	30809.61	44049.08
285	21981.08	40780.01	295	30809.61	44049.08
286	21981.08	40780.01	296	30809.61	44049.08
287	21981.08	40780.01	297	30809.61	44049.08
288	21981.08	40780.01	298	30809.61	44049.08
289	21981.08	40780.01	299	30809.61	44049.08
290	21981.08	40780.01	300	30809.61	44049.08

APPROVED: BALTIMORE COUNTY PLANNING BOARD
BY: *John H. Gray*
DATE: 11/30/79

APPROVED: BALTIMORE COUNTY HIGHWAYS DEPARTMENT
BY: *John H. Gray*
DATE: 11/30/79

APPROVED: BALTIMORE COUNTY HEALTH DEPARTMENT
BY: *John H. Gray*
DATE: 11/30/79

CURVE DATA

From	To	Radius	Length	Chord	Bearing
254	255	728.88	358.88	180.15	N 55° 09' 18" E 358.88
255	256	728.88	358.88	180.15	N 55° 09' 18" E 358.88
256	257	728.88	358.88	180.15	N 55° 09' 18" E 358.88
257	258	728.88	358.88	180.15	N 55° 09' 18" E 358.88
258	259	728.88	358.88	180.15	N 55° 09' 18" E 358.88
259	260	728.88	358.88	180.15	N 55° 09' 18" E 358.88
260	261	728.88	358.88	180.15	N 55° 09' 18" E 358.88
261	262	728.88	358.88	180.15	N 55° 09' 18" E 358.88
262	263	728.88	358.88	180.15	N 55° 09' 18" E 358.88
263	264	728.88	358.88	180.15	N 55° 09' 18" E 358.88
264	265	728.88	358.88	180.15	N 55° 09' 18" E 358.88
265	266	728.88	358.88	180.15	N 55° 09' 18" E 358.88
266	267	728.88	358.88	180.15	N 55° 09' 18" E 358.88
267	268	728.88	358.88	180.15	N 55° 09' 18" E 358.88
268	269	728.88	358.88	180.15	N 55° 09' 18" E 358.88
269	270	728.88	358.88	180.15	N 55° 09' 18" E 358.88
270	271	728.88	358.88	180.15	N 55° 09' 18" E 358.88
271	272	728.88	358.88	180.15	N 55° 09' 18" E 358.88
272	273	728.88	358.88	180.15	N 55° 09' 18" E 358.88
273	274	728.88	358.88	180.15	N 55° 09' 18" E 358.88
274	275	728.88	358.88	180.15	N 55° 09' 18" E 358.88
275	276	728.88	358.88	180.15	N 55° 09' 18" E 358.88
276	277	728.88	358.88	180.15	N 55° 09' 18" E 358.88
277	278	728.88	358.88	180.15	N 55° 09' 18" E 358.88
278	279	728.88	358.88	180.15	N 55° 09' 18" E 358.88
279	280	728.88	358.88	180.15	N 55° 09' 18" E 358.88
280	281	728.88	358.88	180.15	N 55° 09' 18" E 358.88
281	282	728.88	358.88	180.15	N 55° 09' 18" E 358.88
282	283	728.88	358.88	180.15	N 55° 09' 18" E 358.88
283	284	728.88	358.88	180.15	N 55° 09' 18" E 358.88
284	285	728.88	358.88	180.15	N 55° 09' 18" E 358.88
285	286	728.88	358.88	180.15	N 55° 09' 18" E 358.88
286	287	728.88	358.88	180.15	N 55° 09' 18" E 358.88
287	288	728.88	358.88	180.15	N 55° 09' 18" E 358.88
288	289	728.88	358.88	180.15	N 55° 09' 18" E 358.88
289	290	728.88	358.88	180.15	N 55° 09' 18" E 358.88
290	291	728.88	358.88	180.15	N 55° 09' 18" E 358.88
291	292	728.88	358.88	180.15	N 55° 09' 18" E 358.88
292	293	728.88	358.88	180.15	N 55° 09' 18" E 358.88
293	294	728.88	358.88	180.15	N 55° 09' 18" E 358.88
294	295	728.88	358.88	180.15	N 55° 09' 18" E 358.88
295	296	728.88	358.88	180.15	N 55° 09' 18" E 358.88
296	297	728.88	358.88	180.15	N 55° 09' 18" E 358.88
297	298	728.88	358.88	180.15	N 55° 09' 18" E 358.88
298	299	728.88	358.88	180.15	N 55° 09' 18" E 358.88
299	300	728.88	358.88	180.15	N 55° 09' 18" E 358.88

SURVEYOR'S CERTIFICATE

I, J. CARROLL HAZEN, A REGISTERED LAND SURVEYOR OF THE STATE OF MARYLAND, DO HEREBY CERTIFY THAT THE LAND SHOWN HEREON HAS BEEN LAID OUT AND THE PLAT THEREOF PREPARED IN COMPLIANCE WITH SECTIONS 72A TO 72E, INCLUSIVE, OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION AS ENACTED OR AMENDED BY THE ACTS OF 1945 AND 1947 AND SUBSEQUENT ACTS, IF ANY, AMENDATORY THERETO.

J. Carroll Hazen

OWNER'S CERTIFICATE

THE REQUIREMENTS OF SECTIONS 72A TO 72D OF ARTICLE 17 OF THE ANNOTATED CODE OF MARYLAND, 1939 EDITION, CHAPTER 106 OF THE ACTS OF 1945, AS AMENDED BY CHAPTERS 84 AND 788 OF THE ACTS OF 1947, AND SUBSEQUENT ACTS IF ANY, AMENDATORY THERETO SO FAR AS THEY CONCERN THE MAKING OF THE PLAT AND SETTING OF THE MARKERS, HAVE BEEN COMPLIED WITH.

OLDE MILL ESTATES, INC.

BY: *Elliot K. W. Hazen*

EVANS, HAGAN & HOLDEFER, INC.
SURVEYORS & ENGINEERS
8013 BELAIR ROAD - BALTIMORE, MD. 21236
(301) 668-1501

J. Carroll Hazen
DATE: 6/8/78 SCALE: 1"=50'

PARTIAL DEVELOPMENT PLAN OF THE MILL ESTATES

FINAL DEVELOPMENT PLAN NOTES

- [illegible]

OLIVE MILL ESTATES, INCORPORATED
51 GLEN RIDGE RD
GLEN BURNE, MO 63045
IDCA # Z-7-100

[illegible]

TYPICAL DETAIL PANHANDLE EOTS
NO SCALE

GENERAL NOTES

- REASONS FOR 12TH AMENDMENT 11/27/78 *
1. AMEND PROVISOORY SECTION TO REFLECT NOTE #3 OF PROVISOORY SECTION NOTES
 2. AMEND ROAD GRADES TO AGREE WITH FINAL CONSTRUCTION DRAWINGS.
 3. AMEND STORM WATER MANAGEMENT FACILITY TO AGREE WITH FINAL CONSTRUCTION DRNGS
 4. CORRECTIONS TO GENERAL NOTES
 5. REVISE BUILDING ENVELOPES

OFFICE OF PLANNING & ZONING
APPROVED BY

Pet. Ex. 9

EVANS, HAGAN & HOLDEFER, INC.
SURVEYORS AND CIVIL ENGINEERS
2013 BELAIR ROAD, BALTIMORE, MD 21226
(301) 668-1001
J. Carroll Hagan
DATE 9-15-78 SCALE 1"=50'

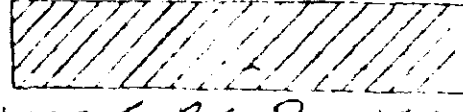
SECOND AMENDED-DATE: DEC. 12, 1991

PARTIAL DEVELOPMENT PLAN

OLDE MILL ESTATES

ELECTION DISTRICT #2, BALTIMORE Co., MD.

FINAL DEVELOPMENT PLAN NOTES

1. ENVIRONMENTS SHOWN HEREON ARE FOR THE LOCATION OF ALL PRINCIPLE BUILDINGS ONLY. KIOSK STRUCTURES, FENCES AND PROJECTIONS AND YARDS MAY BE CONSTRUCTED OUTSIDE THE ENVELOPE, BUT NOT WITHIN SECTIONS 400 AND 301 OF THE BALTIMORE COUNTY ZONING REGULATIONS (SUBJECTS TO COVENANTS AND AVAILABLE BUILDING PERMITS.)
2. BUILDING ENVELOPES SHOWN THUSLY 

3. ALL STREETS SHOWN HEREON ARE INTENDED TO BE DEDICATED FOR PUBLIC USE.

4. IN NON-RESIDENTIAL TRANSITION AREAS THERE WILL BE NO MORE THAN 40' OF DWELLINGS IF THE RESPECTIVE DWELLINGS ARE LESS THAN 40' APART.

5. LANDSCAPING WILL BE PROVIDED AT A LATER DATE BY THE OWNERS.

6. THE LOCAL OPEN SPACE TO BE DEDICATED TO BALTIMORE COUNTY.

7. TRASH TO BE COLLECTED TWICE WEEKLY BY BALTIMORE COUNTY.

8. ALL PARKING PADS AND DRIVEWAYS WILL BE SURFACED WITH ASPHALT AND DRAINAGE MATERIAL (MAKADAM OR CONCRETE).

9. OPEN SPACE OF APPROXIMATELY 9 ACRES SHOWN ON TENTATIVE PLAN, APPROVED 3-16-1978 WILL BE CONVEYED TO BALTIMORE CO.


10. RESIDENTS OF SECTION ONE WILL HAVE ACCESS TO THIS OPEN SPACE UPON OCCUPANCY.

11. THE EXACT LOCATION OF CURB CUTS FOR DRIVEWAYS OR PARKING PADS ENHANCED ARE TO BE DETERMINED BY OWNER WHEN EXIST BUILDING MODELS BECOME AVAILABLE BUT PRIOR TO INSTALLATION OF STREET CURBS.

12. ALL PARKING SPACES WILL BE A MINIMUM OF 7' x 10'.


13. ALL REAR YARDS ARE TO BE 60 SQ FT MINIMUM. THE MINIMUM LENGTH OF THIS LOT IS 15'. COVERED AREAS SUCH AS PORCHES, ETC., WILL NOT BE CALCULATED IN THIS AREA.

14. NO GRADING WILL BE DONE BY THE OWNER OUTSIDE OF THE BUILDING ENVELOPES OR OUTSIDE THE ROAD BEDS EXCEPT AS SHOWN BY PROPOSED CONTOUR LINES, AS SHOWN HEREON.


15. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


16. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


17. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


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
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
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
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22. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


23. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.

24. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


25. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


26. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.

27. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.

28. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.

29. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


30. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


31. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


32. STREET LIGHTS ARE SHOWN THUSLY  NOT TO EXCEED 6' HEIGHTS ARE FOR SALE.


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
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
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
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
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
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
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
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
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
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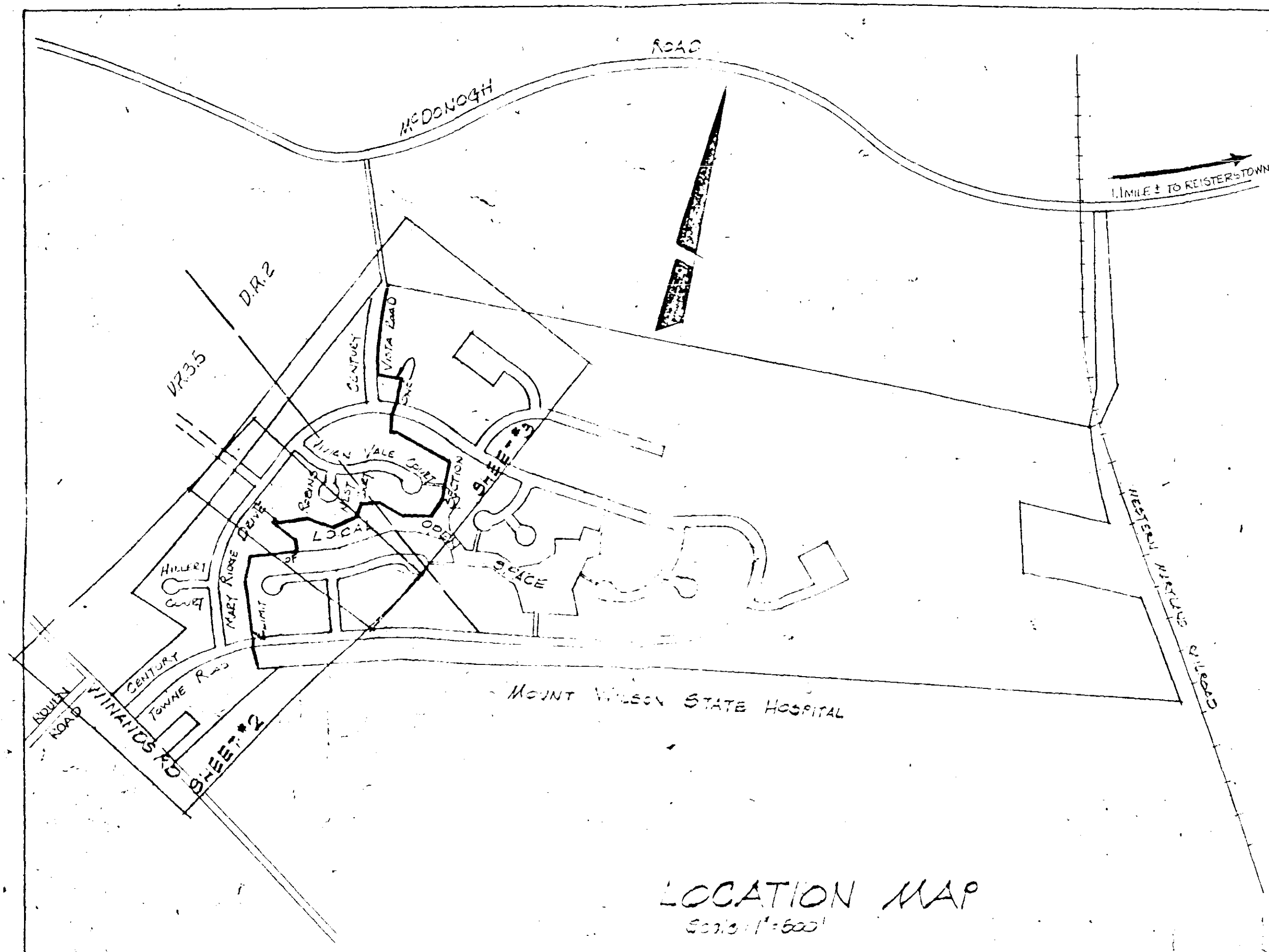
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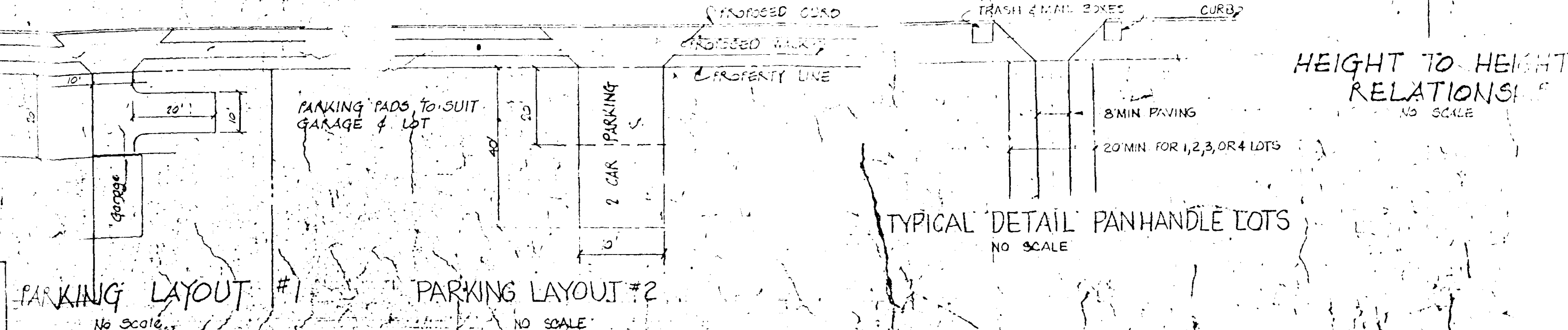


SECTION ONE

OWNER/DEVELOPER
OLDE MILL ESTATES, INCORPORATED
51 GLEN WIDGE RD.
GLEN BURNE, MD 21036
IDCA # 77-100

Note:
1. Second Amended Plan Prepared
by KCI Technologies, Inc.
Dec 12, 1991

- Reasons For Second Amendment
1. Revised General Notes 5, 6, 10 To Agree With Total Number Lots Recorded.
 2. Added Section One Title To Notes For Section One & Revised Note 4 Of Section One



HEIGHT TO HEIGHT
RELATIONS
NO SCALE

390

- REASONS FOR 1ST AMENDMENT 11/27/79
1. AMEND PROVISIONARY SECTION TO REFLECT NOTE #34 OF PROVISIONARY SECTION NOTES
 2. AMEND ROAD GRADES, TO AGREE WITH FINAL CONSTRUCTION DRAWINGS.
 3. AMEND STORM WATER MANAGEMENT FACILITY TO AGREE WITH FINAL CONSTRUCTION DRAINAGE
 4. CORRECTIONS TO GENERAL NOTES
 5. REVISE BUILDING ENVELOPES

DIRECTOR OF PLANNING DATE

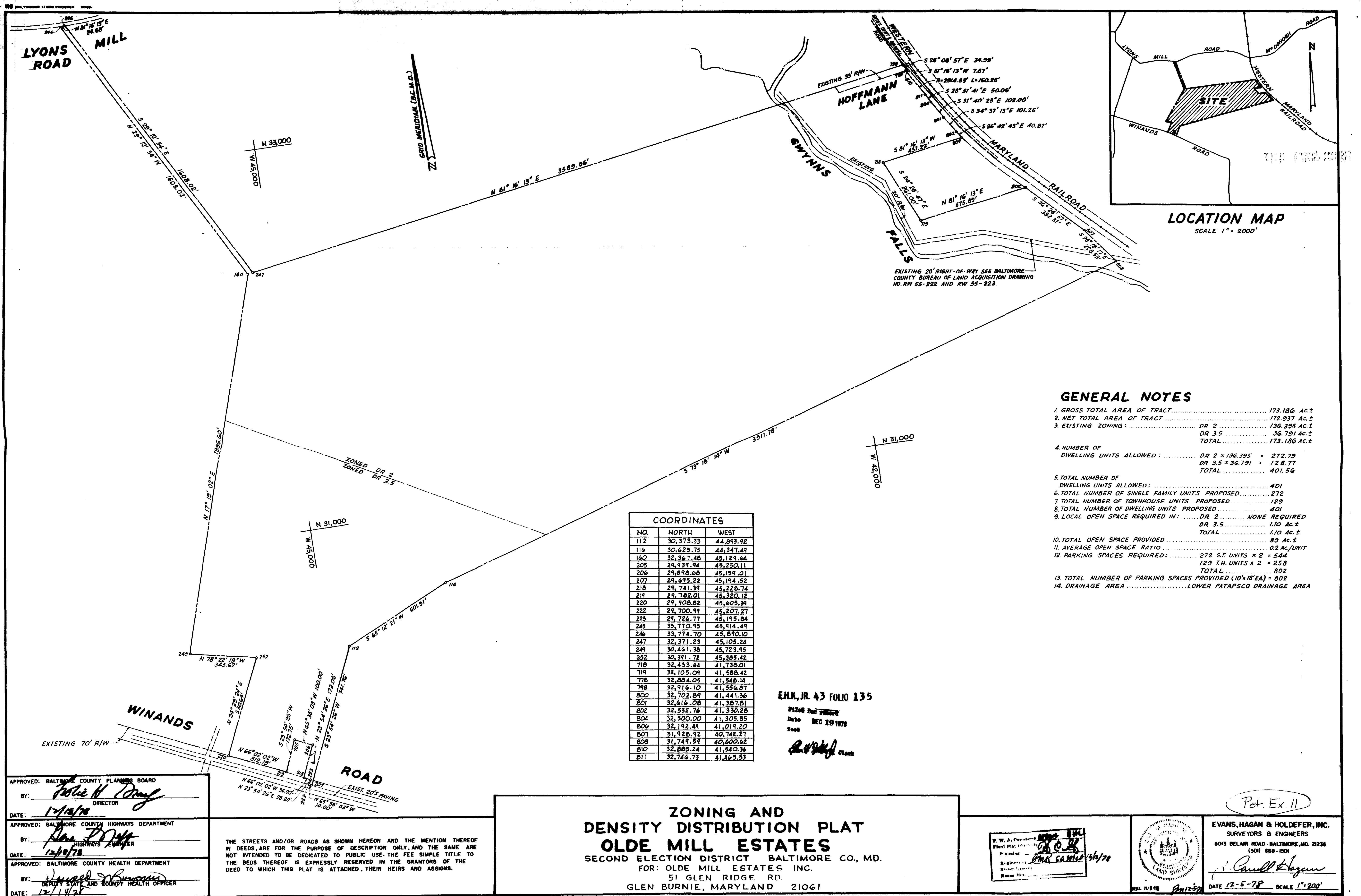
92-373 A

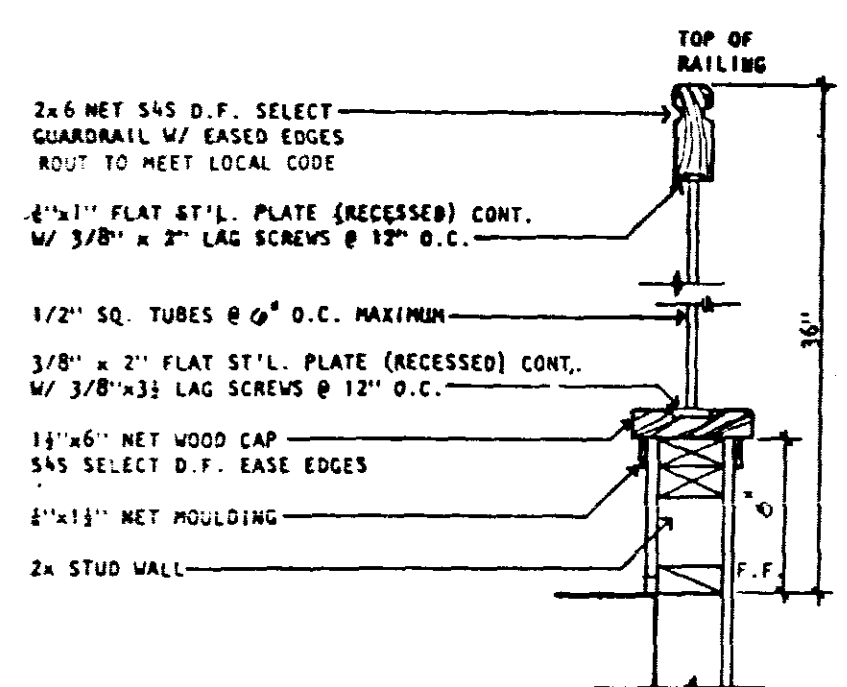
ZONING COMMISSIONER DATE

EVANS, HAGAN & HOLDEFER, INC.
SURVEYORS AND CIVIL ENGINEERS
2613 ELEANOR ROAD, BALTIMORE, MD 21218
(410) 545-1501

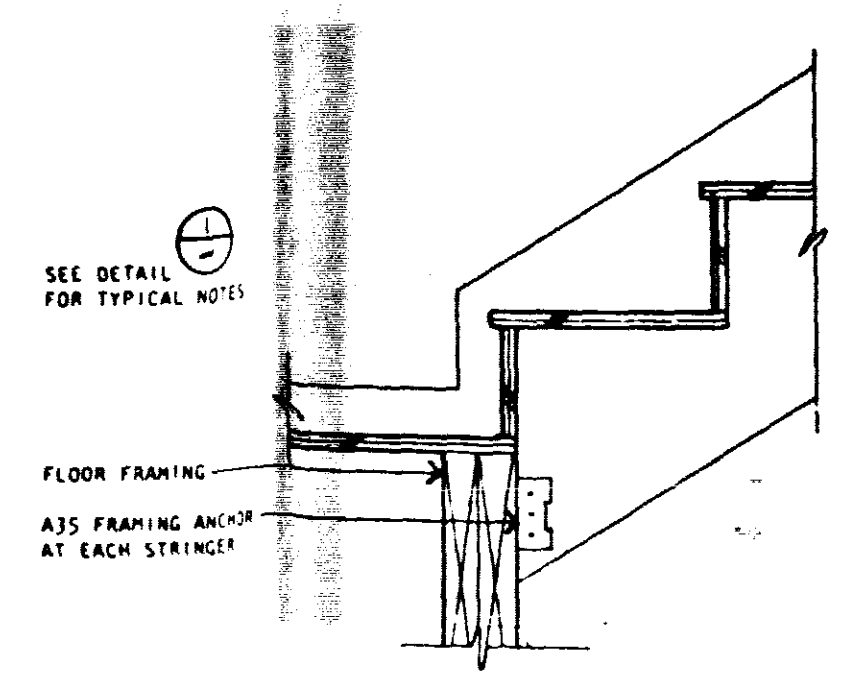
J. Carol Hagan
DATE 9-15-78 SCALE 1"=500'

KCI KCI TECHNOLOGIES, INC.
ENGINEERS • PLANNERS • SURVEYORS

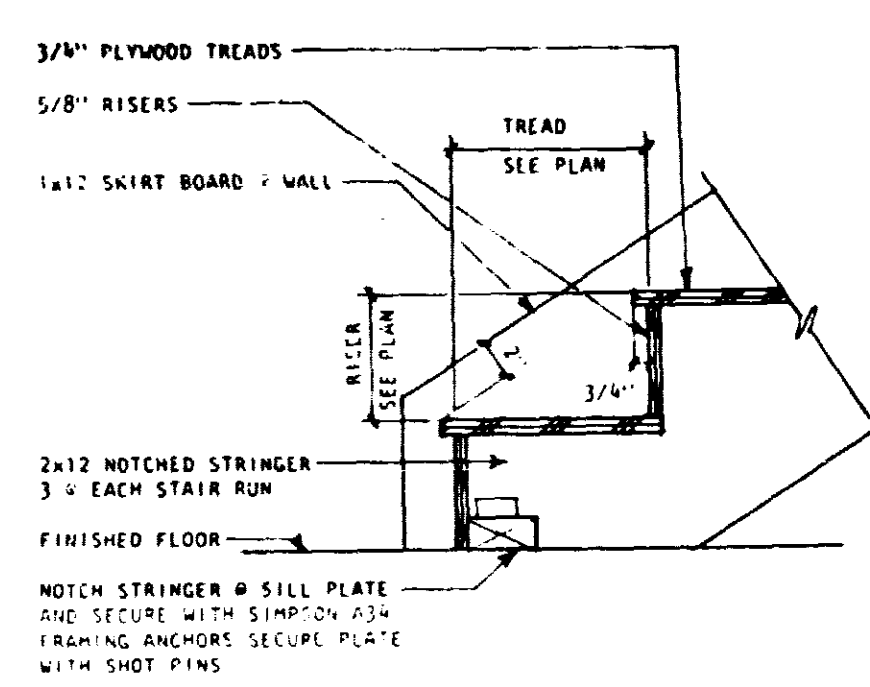




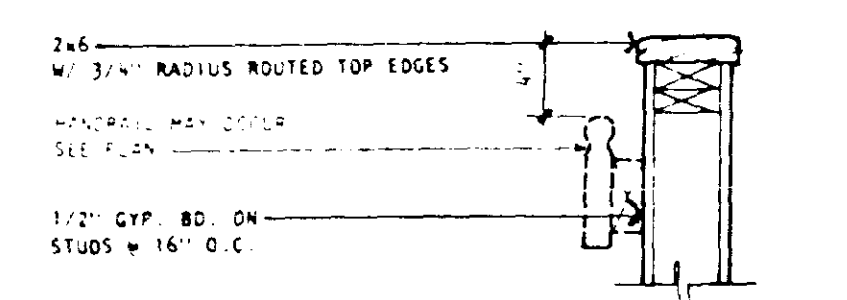
5 GUARD RAIL
1 1/2" = 1'-0"



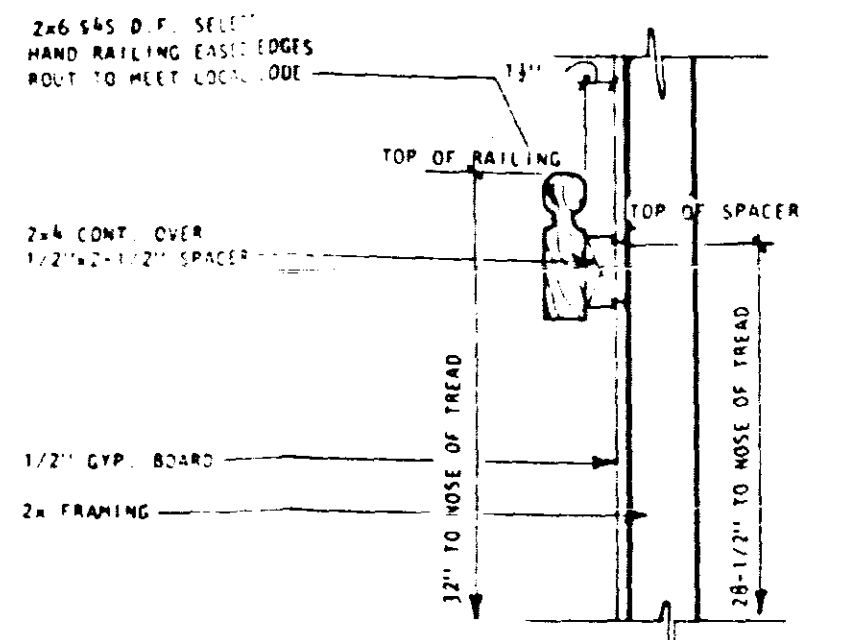
3 STRINGER AT LANDING
1 1/2" = 1'-0"



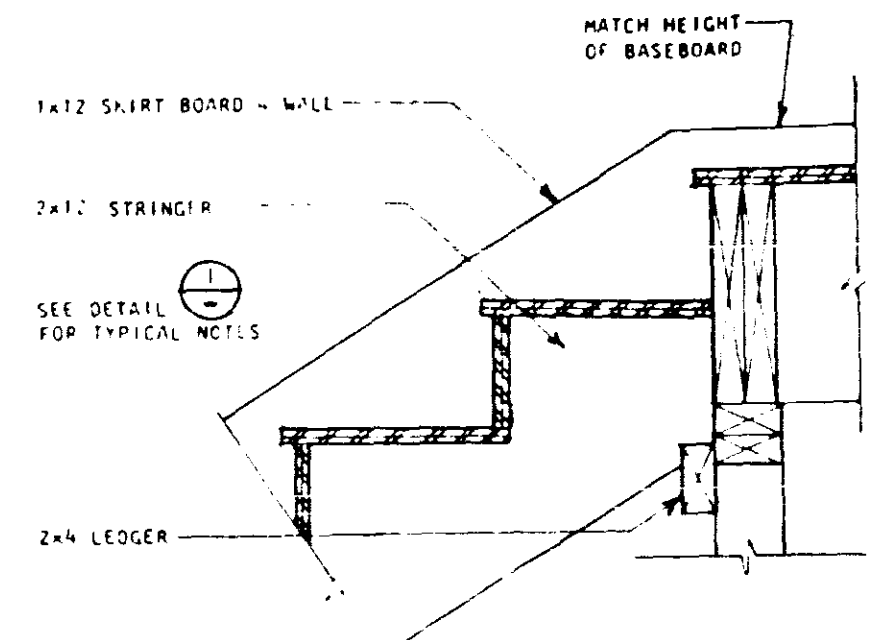
1 STRINGER AT FLOOR
1 1/2" = 1'-0"



6 WALL CAP
1 1/2" = 1'-0"



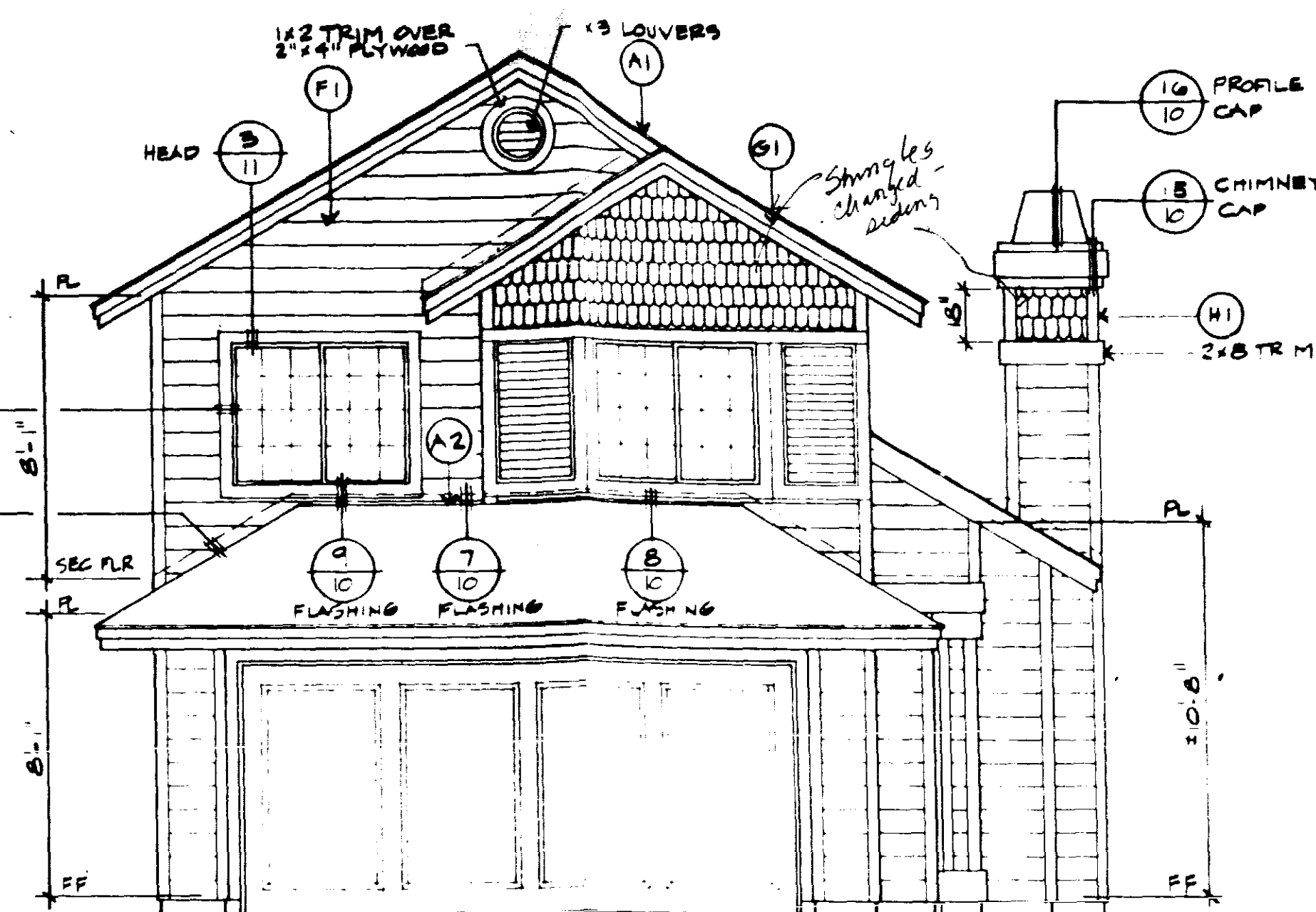
4 WALL MOUNTED HANDRAIL
1 1/2" = 1'-0"



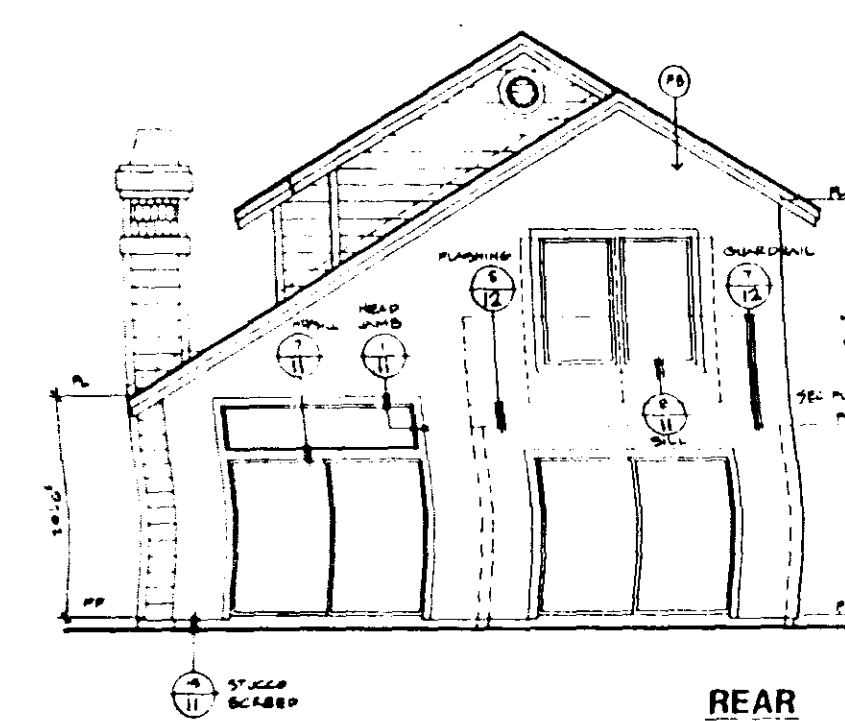
2 STRINGER AT LANDING
1 1/2" = 1'-0"

SECTION / ELEVATION LEGEND

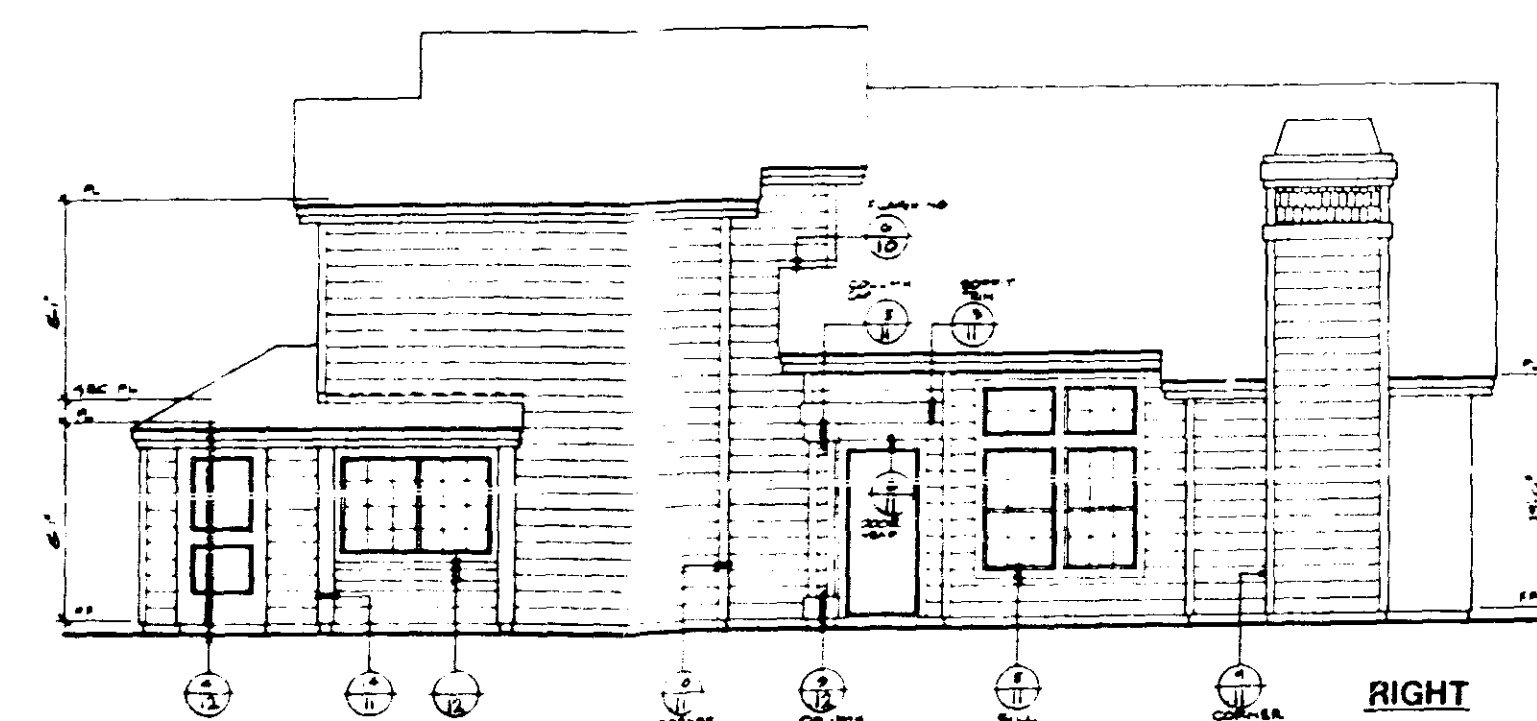
- A. ROOFING:
 1. PITCHED ROOF AT 7:12 SLOPE: THICK BUTT COMPOSITION SHINGLES OVER 1/2" PLYWOOD SHEATHING WITH PLYWOOD CLIPS
 2. BUILT-UP ROOF: PITCH AT 1/4" PER 1'-0"
- B. CONCRETE SLAB:
 1. SEE FOUNDATION PLAN FOR TYPICAL NOTES
- C. FLOOR:
 1. 5/8" PLYWOOD WITH EXT. GLUE T & G SUBFLOOR
- D. BATT INSULATION:
 1. ROOF WITH ATTIC SPACE ABOVE & FLOORS OVER UNHEATED SPACES: R-19 BATT
 2. EXTERIOR WALLS: R-11 BATT
 3. KNEE WALLS BETWEEN ATTICS & LIVING SPACES: R-11
- E. INTERIOR FINISHES:
 1. WALLS/CEILING: 1/2" GYPSUM BOARD
 2. FLOOR CONSTRUCTION:
 - a. 5/8" TYPE "X" DRYWALL FROM FOUNDATION TO ROOF
 - b. 5/8" TYPE "X" DRYWALL FROM FOUNDATION TO SECOND FLOOR JOISTS
 - c. 5/8" TYPE "X" DRYWALL FROM FOUNDATION TO 1-HOUR CONSTRUCTION CEILING
 - d. 1 LAYER 5/8" TYPE "X" DRYWALL ON FLOOR JOISTS AND BOTTOM TRUSSES
- F. EXTERIOR FINISHES:
 1. HARDWOOD SIDING: LAP SIDING
 2. 1/2" GYPSUM BOARD
 3. 5/8" GYPSUM BOARD
- G. TRIM:
 1. FASCIA: 1 X 3 TRIM OVER 2 X 8 RESAWN FASCIA
 2. DOORS, WINDOWS AND CORNERS: 2 X 4 RESAWN TRIM
- H. CHIMNEY: TO EXTEND 2'-0" MINIMUM ABOVE ANY ROOFS WITHIN 10'-0"



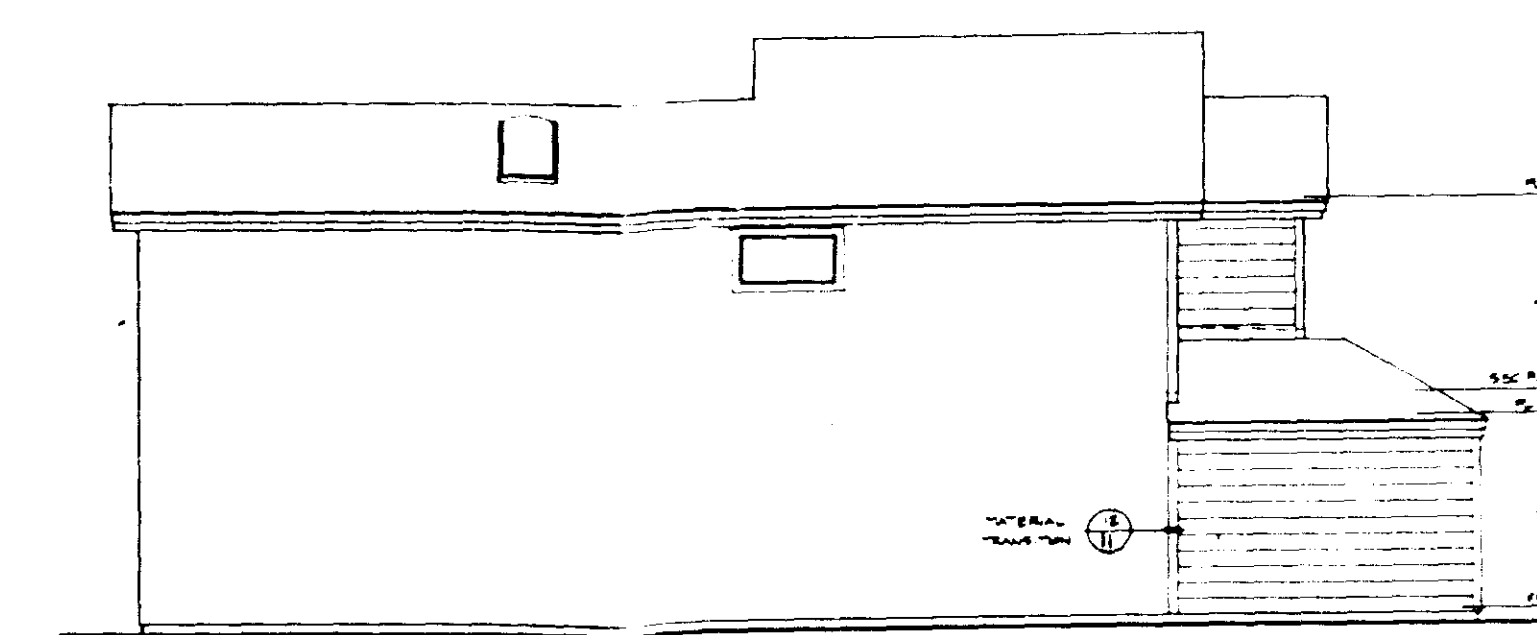
FRONT
SCALE: 1/4" = 1'-0"



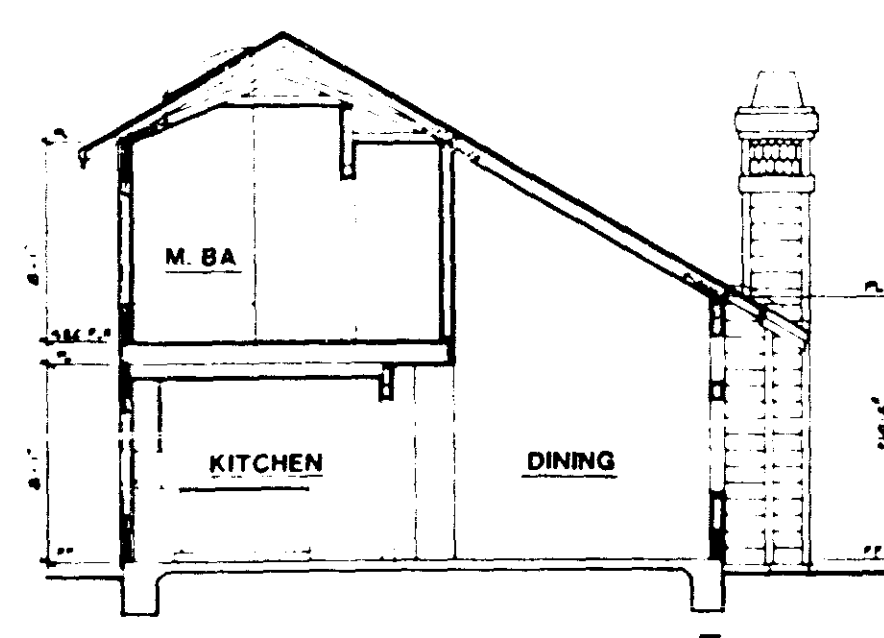
REAR



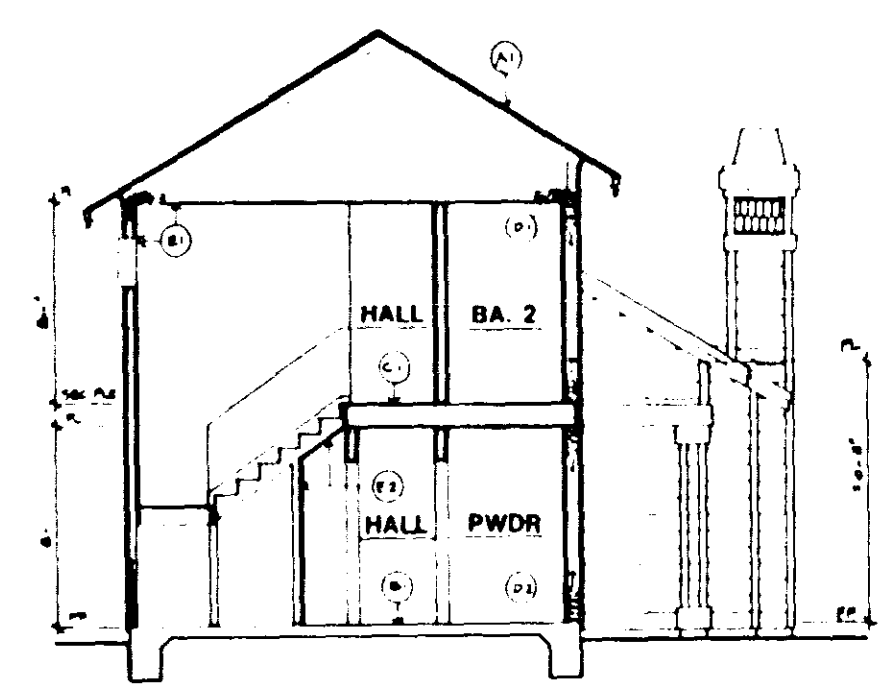
RIGHT



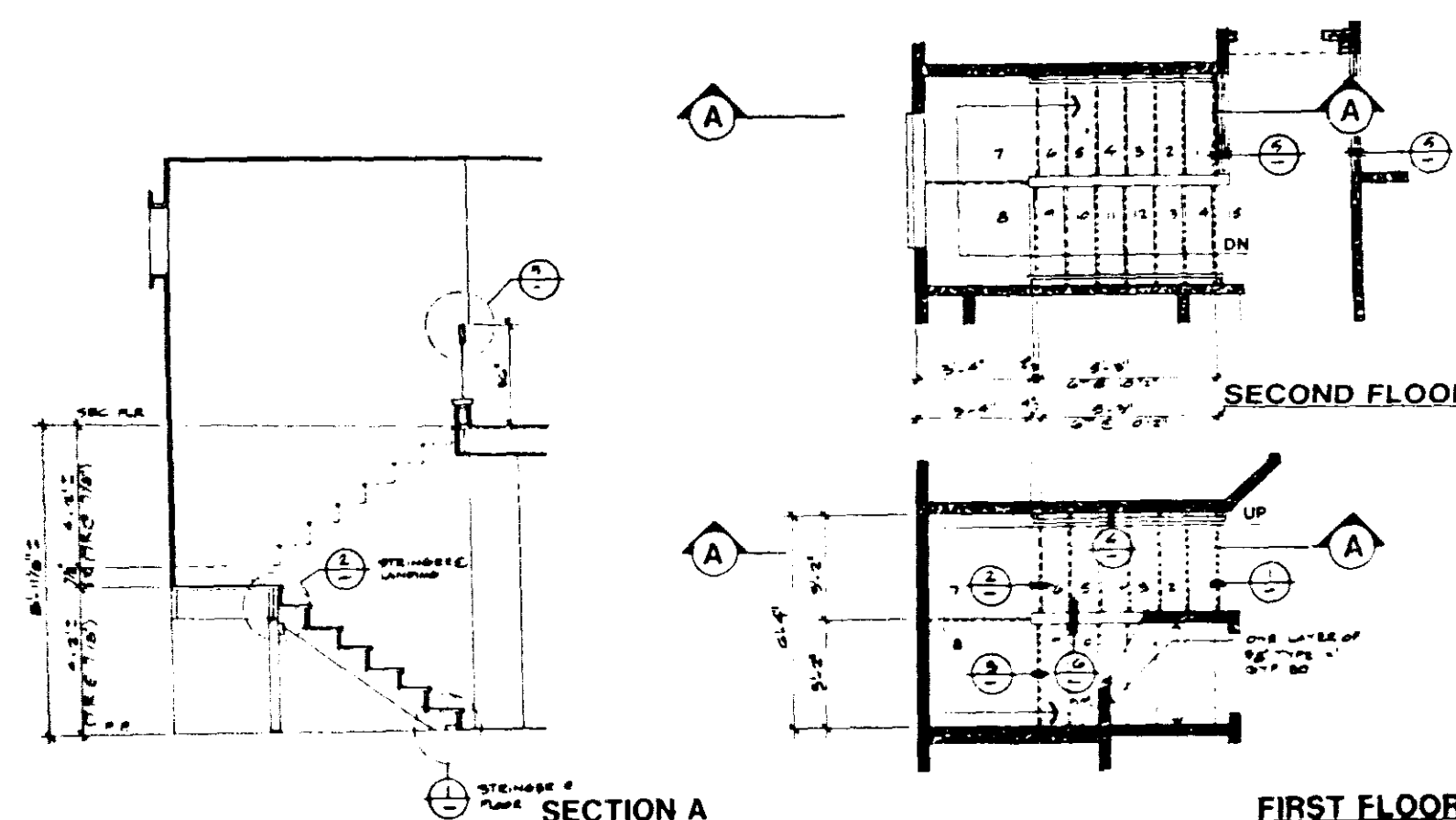
LEFT



F

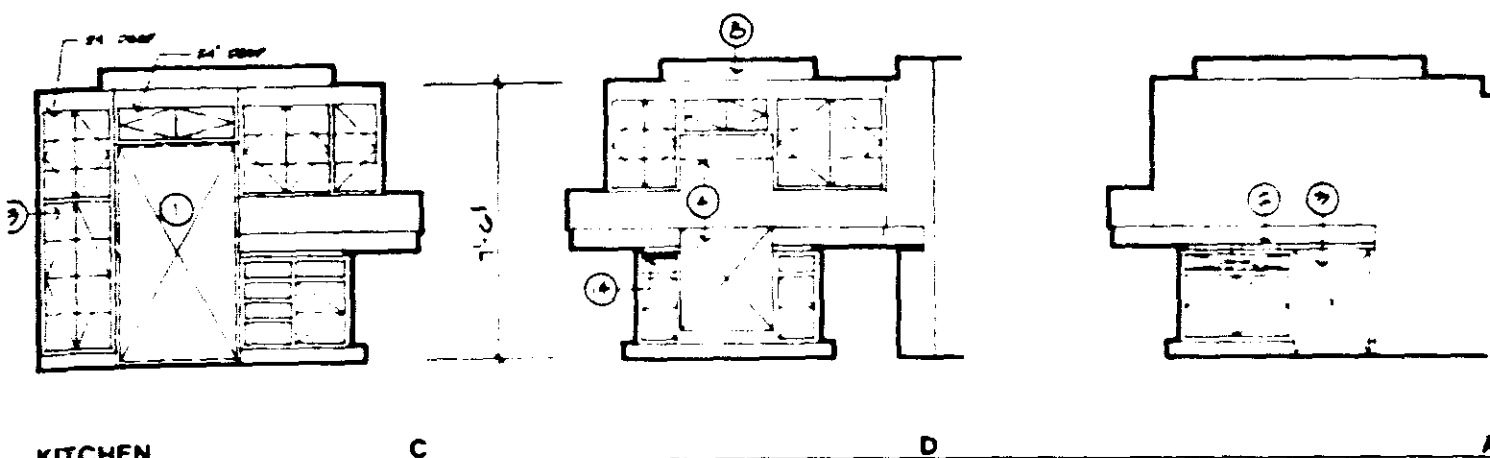


G

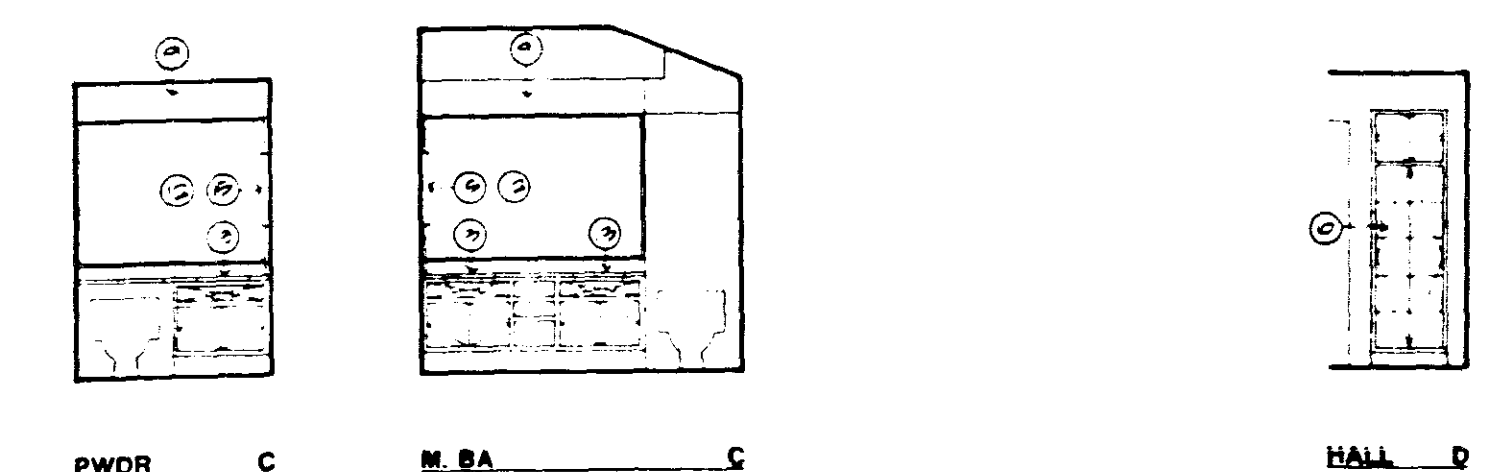


SECTION A

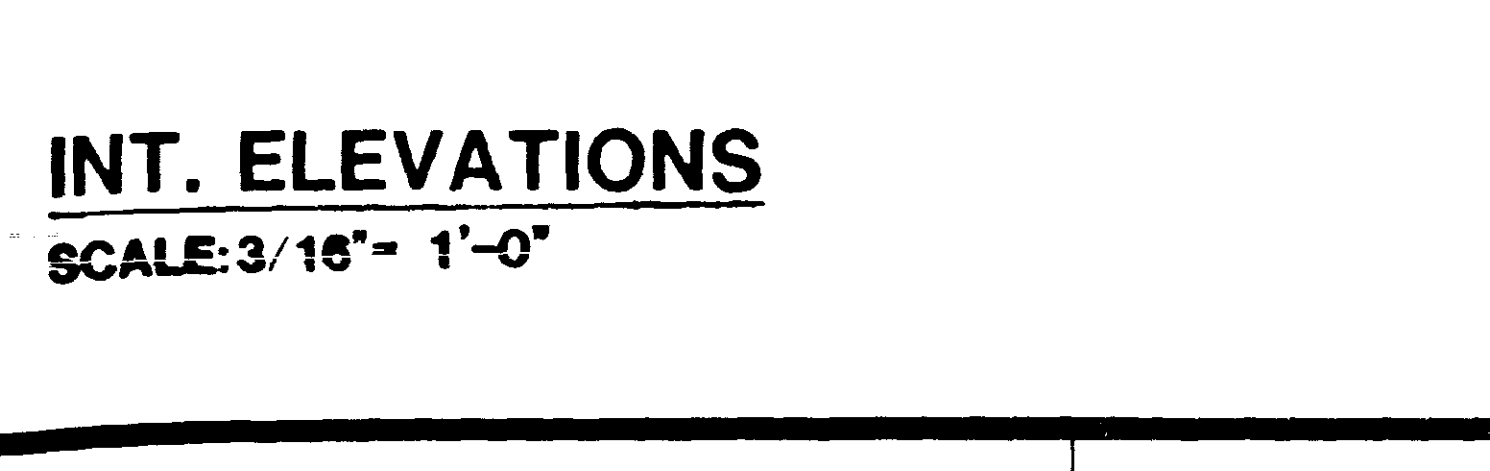
STAIRS
SCALE: 3/16" = 1'-0"



FIRST FLOOR



SECOND FLOOR



INT. ELEVATIONS
SCALE: 3/16" = 1'-0"

SECTIONS
SCALE: 1/8" = 1'-0"

EXT. ELEVATIONS
SCALE: 1/8" = 1'-0"

THE USER OF THESE PLANS UNDERSTANDS THAT THEY ARE DESIGNED FOR ANY SPECIFIC SITE OR WITH ANY REFERENCE TO ANY SPECIFIC MATERIALS OR METHODS OF CONSTRUCTION. THE USER OF THESE PLANS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF ALL DATA AND CONDITIONS. THE USER OF THESE PLANS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF ALL DATA AND CONDITIONS.

NO.	DATE	REVISION

PROJECT TITLE
ADA# 1889#88 MM

PROJECT NO.

SHEET TITLE

ELEVATIONS

SECTIONS

INTERIOR ELEVATIONS

STAIRS

SEPIA DATE

PRINT DATE

SHEET NO. **7 OF 12**

Ref. No. 6

MICROFILMED

(1952). A petitioner seeking a zoning ordinance has the burden of proving practical difficulty and undue hardship, although a lesser burden is required when the particular relief sought is an area variance as opposed to a use variance. Zengerle v. Board of County Commissioner, 262 Md. 1, 21, 276 A.2d 646 (1971). In an area variance case the focus of concern is whether a practical difficulty would exist if the variance would be denied.³ "Where the standard of 'practical difficulty' applies, the applicant is relieved of the burden of showing a taking in a constitutional sense, as is required under the 'undue hardship' standard." Anderson v. Board of Appeals, supra at 39. In order to prove practical difficulty for an area variance, three criteria must be met:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with restrictions unnecessarily burdensome.
2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. Anderson, supra at 39, quoting 2 Rathkopf, The Law of Zoning and Planning, 45-28-29 (3d ed. 1972).

³ Id. The lesser burden is permitted because the impact of an area variance is viewed as being much less drastic than that of a use variance. Anderson v. Board of Appeals, supra at 39.

D.
(Analysis)

On appeal to this court, Olde Mill asserts that the Board erred by considering the aesthetic incompatibility of the proposed construction with the rest of the neighborhood.⁴ However, this court finds that it is proper for the zoning authority or this court to consider the aesthetic affect on the neighborhood in its determination of whether a variance would be in harmony with the spirit and intent of the regulation. First, there is nothing in the B.C.Z.R. which expressly prohibits the zoning authority from considering the aesthetic affect of a variance. Second, in Daihl v. County Board of Appeals, 258 Md. 157, 265 A.2d 227 (1970) the Court denied a variance from residential to industrial zoning stating:

The evidence is such as would lead a reasonable man to the belief that the granting of these variances may well affect the aesthetic ambience of the residentially zoned properties which lie in the immediate area. For this reason we are of the opinion that the granting of these variances would be in disharmony with the "spirit and intent ... of ... the regulations..." (Emphasis added) Daihl, supra at 167.

Olde Mill argues that while the requested "use" variance in Daihl may be more extreme, the "area" variance requested in the instant case would cause a comparable negative affect on the "aesthetic ambience" of the community. Upon review of the circumstances existing in this case, this court cannot overlook

⁴ Olde Mill argued in its Memorandum of Appellant to this court that Section 307 of the B.C.Z.R. does not permit the Board to deny a variance based upon aesthetic considerations or considerations of compatibility. Memorandum of Appellant, page 3, page 11.

the fact that the two adjoining lots on either side of lot E20 are 100 ft. and 93 ft. wide respectively. The lots in Olde Mill Estates subdivision average about 70 ft. wide. Therefore, the appellants are seeking a substantial variance. (See Board of Appeals Opinion, page 2: "The total of the side yard variance requested equals 40 ft.") In addition, Olde Mill proposes to build a house with its side fronting Winands Road in contrast to the two neighboring dwellings which front Winands road. Therefore, there was sufficient evidence for the Board to conclude that the granting of the variance would be in disharmony with the spirit and intent of the regulations and detrimental to the general welfare of the community.

Further, the court can not disagree with the Board's decision that Olde Mill would not suffer practical difficulty or undue hardship without a variance since Olde Mill would not be worse off than Olde Mill originally intended. Olde Mill's "investment-backed expectation" from the inception of the development was to improve 401 lots in the subdivision and to use lot E20 as an access road for construction purposes.⁵ The

⁵ The term "investment-backed expectation" comes from the Supreme Court opinion written in Lucas v. South Carolina Coastal Commission, 112 S. Ct. 2886 (1992). The Supreme Court used this term in its discussion of whether a takings claimant is entitled to compensation for loss incurred as a result of a zoning restriction. The Court stated:

[The answer to whether a taking has occurred] may lie in how the owner's reasonable expectations have been shaped by the State's law of property i.e. whether and to what degree the State's law has accorded legal recognition and protection to the particular interest in land with respect to which the takings claimant alleges a diminution in (or elimination of) value.

appellant's recorded subdivision plat does not express an intent to improve lot E20 when the access road is abandoned. Since the appellant successfully improved 401 lots in accordance with its own specifications, there was sufficient evidence for the Board to find that no practical difficulty or unreasonable hardship would result if the appellant is prevented from building on lot E20.

In addition, this court concludes that Olde Mill is precluded as a matter of law from claiming practical difficulty or undue hardship. In Wilson v. Mayor and Comm. of the Town of Elkton, 35 Md. App. 417, 371 A.2d 443 (1977) the Court held that a petitioner who is responsible for creating a practical difficulty or undue hardship is not entitled to a variance. A petitioner has the duty to exercise proper diligence to avoid hardship. Wilson, supra at 428-419. This court finds that Olde Mill failed to exercise proper diligence by omitting from the plat an express intent to improve lot E20, and by neglecting to tack this lot onto other parcels of the subdivision.⁶

⁶ Lucas, supra at 2894, footnote no. 7.

⁷ With regards to the motive underlying the appellant's efforts to obtain a variance, this court cannot disagree with the argument of counsel for the protestants at the hearing before the Board. (See Official Transcript of Proceedings in Case No. 92-373-A, February 3, 1993, pages 113-116). Because Olde Mill and its counsel, are sophisticated in the subdivision process, it would be unlikely that the failure to mention lot E20 on the recorded plat as a building maximize the value of this subdivision as an afterthought. Other lots which were originally used for access purposes are similar in configuration and size as lots the subdivision lots and significantly smaller than lots outside the development. The protestants argued that it is not unusual that a subdivision will include unusable land such as parcels used for construction purposes, and it is common

Lastly, the court does not agree with Olde Mill's claim that denial of a variance constitutes a taking of property requiring just compensation. A zoning restriction will result in a taking of the property if there is substantial evidence that the ordinance deprives the owner of all beneficial use of the property and the property can not be used for any reasonable purpose under its existing zoning.⁷ Lucas v. South Carolina Coastal Council, 112 S.Ct. 2886 (1992); Robert M. Washburn, Land Use Control, The Individual, And Society: Lucas v. South Carolina Coastal Council, 52 Md. L. R. No. 1, 162, 1993; Stanley P. Abrams, Guide to Maryland Zoning Decisions, (3rd. ed. 1992), page

to tack such parcels onto other lots or sell them to neighboring lot owners.

⁷ The Fifth Amendment was designed to prevent a private property owner from bearing a complete loss where regulations benefit the public by restricting certain harmful or undesirable uses.

"When the loss is total ... basic fairness requires that society as a whole bear the cost, rather than the sole property owner." "Public policy should not be determined by accidents of ownership; rather, society as a whole should pay for societal benefits." 52 Md. L. R. No. 1, 162, 204.

In Lucas, supra at 2895, the majority noted Justice Stevens criticism that the deprivation of all economic value rule was "wholly arbitrary" in that landowners who suffered just slightly less than a 100% loss recovered nothing while a landowner who suffered complete loss of value recovers in full. The majority responded to Stevens' criticism by emphasizing that:

"economic impact of the regulation on the claimant and ... the extent to which the regulation has interfered with distinct investment-backed expectations" are keenly relevant to the takings analysis generally."

Lucas, supra 2895, footnote no. 8, quoting Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978).

Further, the majority stated "[t]akings law is full of these 'all - or - nothing' situations." Lucas, supra at 2895, footnote no. 8.

315. Whether there has been a taking requiring just compensation depends upon the facts of each individual case.⁸ Abrams, Guide to Maryland Zoning Decisions, page 315. If confiscation is successfully proven it may justify or compel reclassification. Id.

According to decisions by other courts, this court finds that Olde Mill has not suffered a taking of its property. In the recent Supreme Court case, Lucas v. South Carolina Coastal Council, 112 S.Ct. 2886 (1992), the Court recognized that total economic loss was "relatively rare" and occurred in "extraordinary circumstances." 52 Md. L. R. No. 1, 162, 212, footnote no. 342. quoting Lucas, supra at 2894. In Lipsitz v. Parr, 164 Md. 222, 234, 164 A.2d 743 (1933), the Court held that a valid taking not requiring just compensation exists as long as the property owner remains in substantial enjoyment of his property, even though diminishing its worth or value to the owner or in the open market. Further, in Daihl v. County Board of Appeals, supra, the Court denied a variance even though the property was worth much less under existing zoning regulations, stating:

"The mere fact that the variance would make the property more profitable is not a sufficient ground to justify a relaxation of setback requirements." Daihl, supra at 167, quoting Easter v. Mayor and City Council of Baltimore, 195 Md. 395, 400, 73 A.2d 491 (1950).

There was sufficient evidence in the case at bar for the

⁸ The Court must assess the economic impact of the regulation and the extent to which it interferes with the investment-backed expectations. 52 Md. L. R. No.1, 162, 216.

Board to conclude that Olde Mill has not suffered a taking of its property. Although there exists a great opportunity for Olde Mill to capitalize on lot E20 by building a dwelling on that parcel, it is not deprived of all beneficial use of the property if the variance is denied. Olde Mill had other opportunities to use lot E20 since it could have tacked that lot onto another parcel in the subdivision. There is no indication that the lot is not salable to an adjoining landowner or another individual. Further, this court finds that any monetary benefit of a variance to Olde Mill would be far outweighed by the detriment to the community. Because lot owners depended upon the recorded plat it would be unfair to permit Olde Mill to improve lot E20 which was never disclosed on record as a building lot.

This court affirms the decision sustaining the Board of Appeal action denying Olde Mill an area variance for lot E20 and denying an amendment to the Final Development Plan.

cc: Benjamin Bronstein, Esq.
205 Susquehanna Building
29 West Susquehanna Ave.
Towson, Maryland 21204

Attorney for Appellant

INTERESTED PARTIES

Mr. Kenneth J. Smith
8642 Winands Road
Randallstown, MD 21133

Mr. Walter B. Kirk
8646 Winands Road
Randallstown, MD 21133

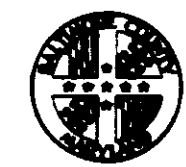
Mr. Alexander Eldridge
Mrs. Ethel Eldridge
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3830 Terka Circle
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Mr. Kenneth B. Dawson
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4272 Mary Ridge Drive
Randallstown, Md 21133



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 49, Old Courthouse
400 Washington Avenue
October 29, 1992

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-373-A OLDE MILL ESTATES, INC.
N/s Winands Rd., 119' W of Adrienne
Way (8644 Winands Road)
2nd Election District
3rd Councilmanic District
VAR-Minimum lot width 50' in lieu of
required 70'; amend Final Development Plan
to create buildable lot.
8/18/92 -Z.C.'s Order DENYING Petition.

ASSIGNED FOR: WEDNESDAY, FEBRUARY 3, 1993 at 10:00 a.m.

cc: Benjamin Bronstein, Esquire - Counsel for Petitioner/Appellant
Mr. Elliott Weinstein - Petitioner/Appellant
Olde Mill Estates, Inc.

Mr. Walter R. Kirk

People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director - Zoning Administration

LindaLee M. Kuszmaul
Legal Secretary

OCT 30 1992

Up to me

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

May 4, 1992

Benjamin Bronstein, Esquire
29 W. Susquehanna Avenue, Suite 205
Towson, MD 21204

RE: Item No. 390, Case No. 92-373-A
Petitioner: Olde Mill Estates, Inc.
Petition for Variance

Dear Mr. Bronstein:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

MICROFILMED

Zoning Plans Advisory Committee Comments
Date: May 5, 1992
Page 2

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys, engineers and applicants who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the forfeiture loss of the filing fee.

Very truly yours,
W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Coordinator

MCR:jw

Enclosures

cc: Mr. Elliott Weinstein
Olde Mill Estates, Inc.
4104 Century Towne Road
Randallstown, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this
26th day of March, 1992.

Arnold Jablon
ARNOLD JABLON
DIRECTOR

Received By:

W. Carl Richards, Jr.
Chairman,
Zoning Plans Advisory Committee

Petitioner: Olde Mill Estates, Inc.

Petitioner's Attorney: Benjamin Bronstein

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: April 15, 1992
TO: Arnold Jablon, Director
Zoning Administration & Development Management
FROM: Ervin McDaniel, Chief
Development Review Section
Office of Planning and Zoning
SUBJECT: PETITIONS FROM ZONING
ADVISORY COMMITTEE - APRIL 6, 1992

The Office of Planning and Zoning has no comments on the following petitions:

Joseph M. Lewis	-	Item No. 383
Anthony S. Rinaldi	-	Item No. 384
George Schiaffino	-	Item No. 386
Robert H. Wiedefeld	-	Item No. 387
Joseph A. Cooper	-	Item No. 388
Terry Lee Foy	-	Item No. 389
Elliott Weinstein	-	Item No. 390
Ronald W. Chapman	-	Item No. 394

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

jm
PETITS3.ZON

RECEIVED
APR 14 1992
ZONING OFFICE

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: April 8, 1992

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: April 6, 1992

This office has no comments for item numbers 383, 384, 387, 388, 389, 390 and 394.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/Lvd

RECEIVED
APR 14 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

April 15, 1992

TO: Arnold Jablon, Director
Zoning Administration and Development Management
FROM: DIVISION OF GROUND WATER MANAGEMENT
SUBJECT: Zoning Comments

The agenda for the zoning advisory committee meeting of April 6, 1992 has been reviewed by the Department of the Environmental Protection and Resource Management staff.

There is no comment for the following item numbers:

383
384
386
387
389
390

SSF:rmp

NO_CMNT/GWRMP

RECEIVED
APR 21 1992
ZONING OFFICE

Baltimore County Government
Fire Department



700 East Joppa Road, Suite 901
Towson, MD 21204-5500

(301) 887-4500

APRIL 3, 1992

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: OLDE MILL ESTATES, INC.

Location: 8644 WINANDS ROAD

Item No.: 390(JRA) Zoning Agenda: APRIL 6, 1992

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Carl Jerry Fisher* Noted and Approved
Planning Group
Special Inspection Division Fire Prevention Bureau

JP/KEK

RECEIVED
APR 10 1992
ZONING OFFICE

MICROFILMED

CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF
OLDE MILL ESTATES, INC. FOR VARIANCES
ON PROPERTY LOCATED ON THE NORTH SIDE
WINANDS ROAD, 119 FT. WEST ADRIANNE WAY
(8644 WINANDS ROAD)
2ND ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
OLDE MILL ESTATES, INC. -
PLAINTIFF
ZONING CASE NO. 92-373-A

Civil Action No. 51/268/93CV4186
Agency Case No.

Notice

Pursuant to Maryland Rule 7-206(e), you are advised that the Record of Proceedings was filed
on July 7, 1993.

Kathleen C. Weidenhammer
Clerk

Date mailed: July 7, 1993

Copy to:

Benjamin Bronstein
205 Susquehanna Bldg.
29 W. Susquehanna Avenue
Baltimore, MD 21204

Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals, Room 49
Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204

RECEIVED
COUNTY BOARD OF APPEALS
93 JUL -8 AM 10:30

IN THE MATTER OF THE
THE APPLICATION OF
OLDE MILL ESTATES, INC.
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE
WINANDS ROAD, 119 FT. WEST
ADRIANNE WAY
(8644 WINANDS ROAD)
2ND ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
OLDE MILL ESTATES, INC. -
PLAINTIFF
ZONING CASE NO. 92-373-A

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE
BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Judson H. Lipowitz, John G. Disney, and S. Diane
Levero, constituting the County Board of Appeals of Baltimore
County, and in answer to the Order for Appeal directed against them
in this case, herewith return the record of proceedings had in the
above-entitled matter, consisting of the following certified copies
or original papers on file in the Office of Zoning Administration
and Development Management and the Board of Appeals of Baltimore
County:

No. 92-373-A

Petition for Variances filed by Benjamin
Bronstein, Esquire, on behalf of Olde Mill
Estates, Inc., Owner/Petitioner, to allow
minimum lot of 50' in lieu of required 70' and
to amend the Final Development Plan for Olde
Mill Estates to create a buildable lot.

June 11 /18, 1992 Publication in newspapers.

May 4 Comments of Baltimore County Zoning Plans
Advisory Committee.

June 30 Certificate of Posting of property.

Olde Mill Estates, Inc., Case No. 92-373-A
File No. 93-CV-4186/51/268

July 21, 1992 Hearing held on Petition by the Zoning
Commissioner.
August 18 Order of the Zoning Commissioner DENYING
Petition for Variances.
September 17 Order of the Zoning Commissioner in Response
to Motion for Reconsideration filed by
Benjamin Bronstein, Esquire, Counsel for
Property Owner/Petitioner DENYING Petitioner's
Motion for Reconsideration.
September 17 Notice of Appeal filed by Benjamin Bronstein,
Esquire, on behalf of Olde Mill Estates, Inc.
Feb. 3, 1993 Hearing before the Board of Appeals.
April 12 Opinion and Order of the Board DENYING the
Petition for Variances.
May 4 Order for Appeal and Petition for Appeal filed
in the Circuit Court for Baltimore County by
Benjamin Bronstein, Esquire, on behalf of Olde
Mill Estates, Inc.
May 10 Certificate of Notice sent to interested
parties.
July 2 Transcript of testimony filed; Record of
Proceedings filed in Circuit Court for
Baltimore County.

Petitioner's Exhibit No. 1-Plat that accompanies Petition
12/12/91
2-Plat to accompany petition for
variances 12/12/91 w/modifications
3a-Photo -8642 Winands Road
b-Photo -8642 Winands Road
4a-Photo -8646 Winands Road
b-Photo -8646 Winands Road
5-Photo -8638 Winands Road
6-Photo -8636 Winands Road
7-Plat -1st Amended -Plat 1 Sect 1
Olde Mill Estates -9/26/84
8-Plat 1, Section One -Olde Mill
Estates 6/8/78
9-Olde Mill Estates final development
plan -Approved 1/9/79, dated
9/15/78 -3 pages -Subject parcel on
page 2

Olde Mill Estates, Inc., Case No. 92-373-A
File No. 93-CV-4186/51/268

10-Proposed Amended Final Development
Plan 9/15/78 /3 pages
11-Zoning & Density Distribution Plat
12/5/78
12-Table by Kidde Consultants 1/29/93
13-Photo -subject lot
14-For Identification Only -Drawing
of proposed house -not to scale

Protestants' Exhibit No. 1-Petition objecting to granting of
variances
2-Letter dated 5/5/92 from Paramjit
Shedev
3-Letter dated 5/5/92 from Somsak
Attaset & Chutamas Attaset
4-Plat -1st Amended Partial
Development Plan 7/23/85 -2 pages
5a-Photo /subject lot
b-Photo /subject lot
c-Photo /subject lot

July 2, 1993 Record of Proceedings filed in the Circuit Court
for Baltimore County.

Record of Proceedings pursuant to which said Order was entered
and upon which said Board acted are hereby forwarded to the Court,
together with exhibits entered into evidence before the Board.

Respectfully submitted,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals, Room 49
Basement - Old Courthouse
400 Washington Avenue
Towson, MD 21204 (410) 887-3180

cc: Benjamin Bronstein, Esquire
Olde Mill Estates, Inc.
Michael L. Snyder, Esquire
Walter R. Kirk
William Bralove

IN THE MATTER OF THE
THE APPLICATION OF
OLDE MILL ESTATES, INC.
FOR VARIANCES ON PROPERTY
LOCATED ON THE NORTH SIDE
WINANDS ROAD, 119 FT. WEST
ADRIANNE WAY
(8644 WINANDS ROAD)
2ND ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
OLDE MILL ESTATES, INC. -
PLAINTIFF
ZONING CASE NO. 92-373-A

CERTIFICATE OF NOTICE

Madam Clerk:
Pursuant to the provisions of Rule B-2(d) of the Maryland
Rules of Procedure, Judson H. Lipowitz, John G. Disney, and S.
Diane Levero, constituting the County Board of Appeals of Baltimore
County, have given notice by mail of the filing of the appeal to
the representative of every party to the proceeding before it;
namely, Benjamin Bronstein, Esquire, 205 Susquehanna Building, 29
West Susquehanna Avenue, Towson, MD 21204, Counsel for Plaintiff;
Mr. Elliott Weinstein, Olde Mill Estates, Inc., 4101 Century Towne
Road, Randallstown, MD 21133, Plaintiff; Mr. William Bralove, 4272
Merry Ridge Drive, Randallstown, MD 21133, Protestant; Michael L.
Snyder, Esquire, 400 Allegheny Avenue, Towson, MD 21204, Counsel
for Walter R. Kirk, 8646 Winands Road, Randallstown, MD 21133,
Protestant; and Michael B. Sauer, Esquire, c/o County Board of
Appeals, Room 49, Basement - Old Courthouse, 400 Washington Avenue,
Towson, MD 21204, a copy of which Notice is attached hereto and
prayed that it may be made a part hereof.

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore
County, Room 49, Basement - Old
Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180

Olde Mill Estates, Inc., Case No. 92-373-A
File No. 93-CV-4186

I HEREBY CERTIFY that a copy of the foregoing Certificate of
Notice has been mailed to Benjamin Bronstein, Esquire, 205
Susquehanna Building, 29 West Susquehanna Avenue, Towson, MD
21204, Counsel for Plaintiff; Mr. Elliott Weinstein, Olde Mill
Estates, Inc., 4101 Century Towne Road, Randallstown, MD 21133,
Plaintiff; Mr. William Bralove, 4272 Merry Ridge Drive,
Randallstown, MD 21133, Protestant; Michael L. Snyder, Esquire,
400 Allegheny Avenue, Towson, MD 21204, Counsel for Walter R. Kirk,
8646 Winands Road, Randallstown, MD 21133, Protestant; and Michael
B. Sauer, Esquire, c/o County Board of Appeals, Room 49, Basement -
Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on this
10th day of May, 1993.

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant
County Board of Appeals of Baltimore
County, Room 49, Basement - Old
Courthouse, 400 Washington Avenue
Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 10, 1993

Michael L. Snyder, Esquire
400 Allegheny Avenue
Towson, MD 21204

RE: Case No. 92-373-A
Olde Mill Estates, Inc.

Dear Mr. Snyder:

Notice is hereby given, in accordance with the Rules of
Procedure of the Court of Appeals of Maryland, that an appeal has
been taken to the Circuit Court for Baltimore County from the
decision of the County Board of Appeals rendered in the above
matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Mr. Walter R. Kirk
Mr. William Bralove
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
Docket Clerk -Zoning
Arnold Jablon, Director /ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

May 10, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-373-A
Olde Mill Estates, Inc.

Dear Mr. Bronstein:

In accordance with Rule B-7(a) of the Rules of Procedure of
the Court of Appeals of Maryland, the County Board of Appeals is
required to submit the record of proceedings of the appeal which
you have taken to the Circuit Court for Baltimore County in the
above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you.
In addition, all costs incurred for certified copies of other
documents necessary for the completion of the record must also be
at your expense.

The cost of the transcript, plus any other documents, must be
paid in time to transmit the same to the Circuit Court not later
than sixty days from the date of any petition you file in Court, in
accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been
filed in the Circuit Court.

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

Enclosure

cc: Mr. Elliott Weinstein
Olde Mill Estates, Inc.

Case No. 92-373-A Olde Mill Estates, Inc.

1801.2C2 and/or 1801.2C3 and Section 504 of the Baltimore County Zoning Regulations to allow a minimum lot width of 50 ft. in lieu of the required 70 ft., to allow a window to side tract boundary line setback of 15 ft. in lieu of the required 35 ft., a side tract boundary setback (no windows) of 10 ft. in lieu of the required 30 ft. and to amend the Second Amended Partial Development Plan for OLDE MILL ESTATES to create a buildable lot, be and is hereby DENIED.

Any Appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Judson H. Lipowitz, Acting Chairman

John G. Disney

S. Diane Levero

5

FILE COPY FILE COPY FILE COPY FILE COPY

April 30, 1993

Mr. Bill Bralove
4272 Merry Ridge Drive
Randallstown, MD 21133

RE: Case No. 92-373-A
Olde Mill Estates, Inc.

Dear Mr. Bralove:

Pursuant to your request, enclosed is a copy of the final Opinion and Order issued April 12, 1993 by the County Board of Appeals in the subject matter.

Should you have any questions, please call me at 887-3180.

Very truly yours,

Kathleen C. Weidenhammer
Administrative Assistant

encl.

COPY COPY COPY COPY COPY

May 18, 1993

Michael L. Snyder, Esquire
400 Allegheny Avenue
Towson, MD 21204

RE: Case No. 92-373-A
Olde Mill Estates, Inc.

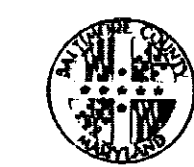
Dear Mr. Snyder:

In response to a telephone call received this morning from Judy of your staff, enclosed is a copy of the final Opinion and Order issued by the Board of Appeals on April 12, 1993 in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 12, 1993

Benjamin Bronstein, Esquire
EVANS, GEORGE AND BRONSTEIN
Susquehanna Building, Suite 205
29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. 92-373-A
Olde Mill Estates, Inc.

Dear Mr. Bronstein:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Kathleen C. Weidenhammer
Administrative Assistant

encl

cc: Mr. Elliott Weinstein
Olde Mill Estates, Inc.
Mr. Walter R. Kirk
People's Counsel for Baltimore County
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director
of Zoning Administration

88/mh/09.09.92

IN RE: PETITIONS FOR ZONING VARIANCE * BEFORE THE
N/S Winands Road, 119 ft. * ZONING COMMISSIONER
w Adrienne Way *
8644 Winands Road * FOR
2nd Election District * BALTIMORE COUNTY
3rd Councilmanic District *
Olde Mill Estates, Inc. * CASE NO.: 92-373-A
Petitioner *

ORDER TO ENTER APPEAL

On behalf of the Petitioner, Olde Mill Estates, Inc., please enter an appeal to the Board of Appeals from the order of the Zoning Commissioner dated August 18, 1992.

EVANS, GEORGE & BRONSTEIN

Benjamin Bronstein
205 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 17 day of September, 1992, a copy of the foregoing Order to Enter Appeal was mailed, postage pre-paid to Mr. and Mrs. Walter R. Kirk, 8644 Winands Road, Randallstown, Maryland 21133, Mr. and Mrs. Robert M. Jones, 4205 Mary Ridge Drive, Randallstown, Maryland 21133, Mr. William Bralove, 4272 Mary Ridge Drive, Randallstown, Maryland 21133, Mr. Ronald A. Doughty, 4358 Mary Ridge Drive, Randallstown, Maryland 21133, Mr. Archibald C. Lewis, 2 Hillery Court, Randallstown, Maryland 21133, and Ms. Ethel Eldridge, 4302 Mary Ridge Drive, Randallstown, Maryland 21133.

RECEIVED
ZONING OFFICE

Benjamin Bronstein

MICROFILMED

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Winands Road, 119' W of * ZONING COMMISSIONER
Adrienne Way *
(8644 Winands Road) * OF BALTIMORE COUNTY
2nd Election District *
3rd Councilmanic District * CASE NO. 92-373-A
Olde Mill Estates, Inc. *
Petitioner *

ORDER IN RESPONSE TO MOTION FOR RECONSIDERATION

The above-captioned matter originally came before me as a Petition for Zoning Variance for that property known as 8644 Winands Road. By Order issued August 18, 1992, the Petition was denied for reasons fully set forth therein.

Subsequently, Counsel for the Petitioner/Property Owner filed a Motion for Reconsideration asking that I review the propriety of my decision. It is to be noted that the Protestants who appeared at the public hearing in opposition to the Petition were not represented by Counsel at that time. Thus, a copy of the Motion for Reconsideration was not forwarded to the Protestants for their response to same.

A brief recitation of the facts in this case is in order. The subject property is a narrow, yet deep lot with a width of 50 feet and a depth of approximately 172 feet. The property is a lot of record and is one of the last, if not the last, building lots in the Olde Mill Estates subdivision. The subdivision is approximately 173 acres in size and contains 401 dwelling units, consisting of 272 single family dwellings and 129 townhouse units. As noted in my original opinion, the subject lot protrudes from the geometric shape of the tract which constitutes the entire subdivision. That is, the subject lot is bordered on the south by Winands Road, on the east by a property owned by one of the Protestants, Walter B.

Kirk, and on the west by a property owned by another Protestant, Donald Smith. It is only on the north side that the property is connected to another lot within the Olde Mill Estates subdivision. Neither the Smith nor the Kirk properties are part of the Olde Mill Estates subdivision. As indicated in my prior order, the Petitioner sought relief from the strict application of Section 1802.3.b of the B.C.Z.R. to allow a minimum lot width of 50 feet in lieu of the required 70 feet. Also, the Petitioner proposed an amendment to the final development plan for Olde Mill Estates to create a building lot. After consideration of the testimony and evidence presented, I denied the Petition for Zoning Variance. Although my prior opinion speaks for itself, I concur that the Protestants were correct in their assertion that the proposed dwelling is incompatible with the adjoining Smith and Kirk properties and could cause a detrimental effect on those lots.

Within its Motion for Reconsideration, the Petitioner makes a number of valid points. First, it is noted that the subject property is not a leftover bit remaining after the subdivision of Olde Mill Estates. It was, and is, a separate distinct parcel. Secondly, the Petitioner notes that the property is zoned D.R. 3.5. It is therefore argued that the lot cannot be used for purposes other than a residential dwelling. Third, the Petitioner notes that even with development of the lot, the property will meet existing setback requirements as they relate to the necessary depth of side yards and window to window distances. Finally, the Petitioner cites McLean v. Soley, 270 Md. 208, 310 A2d 783 (1973) and Loyola Loan Association v. Buschman, 227 Md. 243, 176 A2d 355 (1961) in support of its request for reconsideration. To paraphrase, the Petitioner states that these cases stand for the proposition that where

ORDER RECEIVED FOR FILING
Date 9/17/92
By [Signature]

- 2 -

MICROFILMED

strict application of the zoning regulations would unduly restrict the applicant for a variance, a practical difficulty exists such that a variance should be granted. Applying these cases to the existing situation, the Petitioner argues that the lot in question is zoned for residential use and that the applicant can make no other use of the property. It is alleged that a denial of the variance is a denial of any use of the property and that a practical difficulty therefore exists.

As noted above, many of the points that the Petitioner argues in its Motion for Reconsideration are valid. Additionally, the Petitioner correctly characterizes the existing law.

Following the receipt of the Petitioner's Motion for Reconsideration I conducted a site visit. Unlike my earlier visit to the property, I inspected not only the subject lot on Winands Road, but the existing Olde Mill Estates subdivision. In my view, construction on the subject lot would be consistent with the scheme of that development. However, notwithstanding my conclusions in this regard, I have still determined that the variance should not be granted, and will therefore deny the Motion for Reconsideration. My decision in this respect is based on two factors. First, based on the plans presented at the hearing, the proposed dwelling on the subject lot will be a side-oriented structure. In my view, construction in this manner will be entirely inconsistent with development along Winands Road. The immediate next door neighbors particularly object to a dwelling with the proposed orientation immediately adjacent to their homes. I cannot disagree with their reasoning and believe that a dwelling with that orientation would be inconsistent with the two adjacent properties. Secondly, out of a sense of fundamental fairness and due process, the Protestants have not had the opportunity to review and respond to the

ORDER RECEIVED FOR FILING
Date 9/17/92
By [Signature]

- 3 -

MICROFILMED

Motion for Reconsideration. To reverse my decision would be improper in that respect, particularly when a de novo hearing is available to the Petitioner through the appeals process and the County Board of Appeals. Therefore, for these two reasons, I shall deny the Petitioner's Motion for Reconsideration and shall so order.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 17th day of September, 1992 that the Motion for Reconsideration in the above-captioned matter be and the same is hereby DENIED.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

OFFICE
cc: Benjamin Bronstein, Esquire
29 West Susquehanna Avenue, Suite 205, Towson, Md. 21204
Mr. & Mrs. Walter R. Kirk
8644 Winands Road, Randallstown, Md. 21133
Mr. & Mrs. Robert M. Jones
1008 Mary Ridge Drive, Randallstown, Md. 21133
Mr. William Bralove
1071 Mary Ridge Drive, Randallstown, Md. 21133
Mr. Ronald A. Doughty
1958 Mary Ridge Drive, Randallstown, Md. 21133
Mr. Archibald C. Lewis
2000 York Court, Randallstown, Md. 21133
Ms. Ernel Eldridge
1800 Mary Ridge Drive, Randallstown, Md. 21133
People's Council, Vile

ORDER RECEIVED FOR FILING
Date 9/17/92
By LS

- 4 -

M/C/BB/mb/09.03.02/84.14

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Winands Road, 119 Ft. W * ZONING COMMISSIONER
Adrienne Way *
8644 Winands Road * OF BALTIMORE COUNTY
2nd Election District *
3rd Councilmanic District *
Olde Mill Estates, Inc. *
Petitioner * CASE NO.: 92-373-A
* * * * *

MOTION FOR RECONSIDERATION

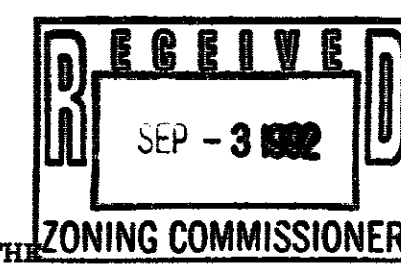
Olde Mill Estates, Inc., Petitioner, by Benjamin Bronstein and Evans, George and Bronstein, moves for a reconsideration of the Order of the Zoning Commissioner for Baltimore County entered in this case on August 18, 1992, and says:

1. This proceeding concerns a petition for a variance from Section 1B02.3.B(1B01.2.C.4-81) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a minimum lot width of 50 ft. in lieu of the required 70 ft., and to amend the Final Development Plan for Olde Mill Estates in order to create a buildable lot.

2. The subject lot is part of the development known as Olde Mill Estates; however, it is located between two lots which pre-existed and are not part of Olde Mill Estates. The lots in Olde Mill Estates are approximately 70 ft. in width. The lots on either side of the subject property are closer to 100 ft. in width.

3. The subject property is not "a left over bit" remaining after subdivision of Olde Mill Estates. It was (and remains) a separate, discrete parcel. This is not a situation, then, where the subject lot is an attempt (as an afterthought) to develop a "left over bit" remaining after the larger parcel was subdivided

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into lots.

4. The property is zoned DR 3.5. The lot cannot be used for purposes other than a residential dwelling.

5. The proposed dwelling will have side setbacks of 10 ft. and 15 ft. These setbacks are consistent with the setbacks in the remainder of the Olde Mill Estates subdivision. Moreover, the suggested structure is essentially a "side entry" house, which will have the garage nearest the street. This will place the residence portion of the structure deeper (behind) the existing structures on the two adjoining lots. The windows of the proposed structure will not, then, be directly facing windows on the existing adjoining structures. Although the Petitioner submitted a proposed dwelling for information purposes, the Petitioner is agreeable to constructing a dwelling with a front entrance in addition to providing screening.

6. In any event, the distances between the proposed structure and the existing adjoining structures substantially exceeds Baltimore County requirements for "window-to-window" distances. One of the adjoining properties has a garage fronting on Winands Road as does the proposed dwelling.

7. It is clear, then, that the side setbacks and the "window-to-window" distances meet Baltimore County requirements. The only dimension in which the proposed structure will not meet County requirements is the physical width of the lot -- the lot is only 50 ft. wide rather than the general 70 ft. width of lots in the Olde Mill Estates development.

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8. The standard for granting of a variance in the State of Maryland is set out and discussed in the case of McLean v. Soley, 270 Md. 208, 310 A.2d 783 (1973). In McLean, the Court of Appeals of Maryland reiterated that standard for granting a variance in this state is whether strict compliance with the Zoning Regulations would result in "practical difficulty or unreasonable hardship." The Court recognized that the expression "practical difficulties or unnecessary hardships" means difficulties or hardships which are peculiar to the situation of the applicant for the variance and are not necessary to carry out the spirit of the zoning ordinance and which are of such a degree of severity that their existence amounts to "to a substantial and unnecessary injustice to the applicant." 310 A.2d at 786, quoting Carney v. City of Baltimore, 201 Md. 130, 137, 93 A.2d 74, 76 (1952).

9. In McLean, the court found that the granting of a variance to allow a 20 ft. rear setback, rather than the required 35 ft. setback, was proper where the applicant for the variance was attempting to preserve trees. In reaching this conclusion, the court placed reliance on the fact that even with the variance, the distance between the proposed structure and the adjoining structure but before the 48 ft., which exceeded the County requirement for a 40 ft. "window-to-window" distance. 310 A.2d at 785.

10. In Loyola Loan Association v. Buschman, 227 Md. 243, 176 A.2d 355 (1961), the applicant sought a variance from the height limitations for a proposed office building. Two additional floors were required because the side setback and parking space

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requirements made it necessary to build the structure in that manner. The Court of Appeals held that the case presented one of "practical difficulty" within the meaning of the term where, as in the case before it, restricting Loyola to a building of uneconomic size "would itself impose an unreasonable hardship" on the applicant. 176 A.2d at 359.

11. McLean and Buschman, then, stand for the proposition that where strict application of the zoning regulations would restrict an applicant for a variance to a building of uneconomic size or where considerations of good planning require a building be located close to the rear line, a practical difficulty exists such that the variance should be granted. Additionally, where the distance from "window-to-window" is equal to or exceeds the County requirements, this is a significant factor in determining that a variance should be granted. Where a strict application of the zoning regulations creates a hardship of such degree of severity that its existence amounts to a substantial and unnecessary injustice to the applicant, then the variance should be granted. Carney v. City of Baltimore, supra.

12. In the case at bar, the lot in question is zoned for residential use. The applicant can make no other use of the property. Denial of the variance is to deny Petitioner any use of the property. This clearly constitutes a practical difficulty and an unreasonable hardship as a matter of law. Loyola Loan Association v. Buschman, supra. The evidence establishes that all side setback and "window-to-window" distances meet or exceed County

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requirements, and it appears that the windows of the proposed structure will not be in a direct line to windows on the existing structures. The square footage of the subject lot exceeds the minimum DR 3.5 zone. Under these circumstances, to deny Petitioner any beneficial use of its property would not benefit the surrounding owners and would unreasonably prevent the owner from using the property for a permitted purpose under the governing principles of Maryland law, and the facts of this case, the situation presented is one of practical difficulty and unreasonable hardship, and the requested variance should be granted.

Respectfully submitted,

Benjamin Bronstein
Benjamin Bronstein
Evans, George and Bronstein
209 Susquehanna Building
29 West Susquehanna Avenue
Towson, Maryland 21204
(410) 296-0200

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
N/S Winands Road, 119 ft. W * ZONING COMMISSIONER
Adrienne Way *
8644 Winands Road * OF BALTIMORE COUNTY
2nd Election District *
3rd Councilmanic *
Olde Mill Estates, Inc. * Case No. 92-373-A
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance from Section 1B02.3.B (1B01.2.C.4-81) of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow a minimum lot width of 50 ft., in lieu of the required 70 ft., and to amend the Final Development Plan for Olde Mill Estates to create a buildable lot.

The Petitioner is Olde Mill Estates, Inc., the Developer of the subdivision which bears that name. Mr. Steve Weinstein appeared on behalf of the Petition and was represented by Benjamin Bronstein, Esquire. Also appearing on behalf of the Petitioner/Developer was Richard L. Smith of K.C.I. Technologies, the engineers who prepared the site plan, marked as Petitioner's Exhibit No. 1. Numerous residents of the surrounding community appeared in opposition to the request. These included Walter R. Kirk, who resides immediately next door, as well as several members of the Olde Mill Estates Growth Association.

The facts presented are clear and not in dispute. The subject property is known as 8644 Winands Road. It is a narrow, yet deep, lot with a width of 50 ft. and a depth of approximately 172 ft. It is one of the last, if not the last, buildable lots in the Olde Mill Estates subdivision. This subdivision is approximately 173 acres in size and contains

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401 dwelling units. This includes 272 single family dwellings and 129 townhouse units.

As is shown on the plats and maps of the locale, the lot fronts Winands Road and provided vehicular access for heavy equipment during construction of the community. Now that the development of the subdivision is substantially completed, the Developer wishes to use this last lot to support a dwelling. However, owing to the narrowness of the lot, the subject variance is necessary. Also, the Developer proposes to situate the house so that the side of same will actually front Winands Road. A house 50 ft. deep by 25 ft. wide is proposed.

In opposition to the request, many of the Protestants testified. They object to the unusual configuration of the dwelling on this lot, believing that same is not compatible with the surrounding locale. Messrs. Kirk and Smith, who reside on both sides of the subject lot and whose properties are not part of the Olde Mill Estates subdivision, particularly object. It is to be noted that Mr. Kirk's house fronts Winands Road and is on a lot 100 ft. wide; twice the width of the subject lot. Mr. Smith's lot, which is on the other side of the subject property, is approximately 93 ft. wide and the house, thereon, also front Winands Road.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relax-

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tion than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

Although esthetics is not a consideration per se, whether the granting of the variance will cause a detrimental effect to the surrounding locale is significant. In this case, I am persuaded that the Protestants are correct in their assertion that the proposed dwelling is incompatible with the surrounding locale and could cause a detrimental effect on the adjacent property owners. This is not a case where the development of an undersized lot will, nonetheless, be consistent with other dwellings nearby. As noted above, the two adjacent properties are nearly double the width of the subject property. Even the lots surrounding this location, which are part of the Olde Mill Estates, are larger. As shown on the site plan, all of these lots are at least 70 ft. in width. Clearly, development of the subject property, as proposed, would be inconsistent with the scheme of the neighborhood. In my view, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. The Petitioner has failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

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By Mr. D. Clark

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Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of August 1992 that a variance from Section 1802.3.B (1801.2.C.4-81) of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a minimum lot width of 50 ft., in lieu of the required 70 ft., and to amend the Final Development Plan for Olde Mill Estates to create a buildable lot, be and is hereby DENIED.

LES:mmm

ORDER RECEIVED FOR FILING
Date 11/16/92
By Mr. D. Clark

MICROFILMED

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner
for Baltimore County

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

August 17, 1992

Benjamin Bronstein, Esquire
29 West Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: Case No. 92-373-A
Petition for Zoning Variance
Olde Mill Estate, Inc.

Dear Mr. Bronstein:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:mmm

att.

cc: Mr. William Bralove
President of Olde Mill Estates Growth Association
cc: Walter R. Kirk

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd Date of Posting June 17, 1992
Posted for: Variance
Petitioner: Olde Mill Estate, Inc.
Location of property: N/S of Windanda Road, 112' W. of Adrienne Way
8644 Windanda Road
Location of Sign: N/S of Windanda Road and Centing Towne Road
Remarks: S. Zebek Orlov
Posted by: S. Zebek Orlov Date of return: June 14, 1992
Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd Date of Posting June 30, 1992
Posted for: Variance
Petitioner: Olde Mill Estate, Inc.
Location of property: N/S of Windanda Road, 112' W. of Adrienne Way
8644 Windanda Road
Location of Sign: Along front of 8644 Windanda Road
Remarks: S. Zebek Orlov
Posted by: S. Zebek Orlov Date of return: July 3, 1992
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 4/16, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 4/16, 1992

THE JEFFERSONIAN,

S. Zebek Orlov

Publisher

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CERTIFICATE OF PUBLICATION

TOWSON, MD., June 11, 1992

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on June 11, 1992

THE JEFFERSONIAN,

S. Zebek Orlov

Publisher

MICROFILMED

Petition for Variance 390

to the Zoning Commissioner of Baltimore County 92-373A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B (1801.2.C.4-81) to allow a minimum lot of 50ft in lieu of the required 70ft and to amend the Final Development Plan for Olde Mill Estates to create a buildable lot.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

1. Configuration of land
2. And such other and further reasons as may be set forth at the time of hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Benjamin Bronstein

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Richard L. Smith

Address

City and State

Attorney's Telephone No.:

(410) 296-0200

4101 Century Towne Road 922-7500

Address

Randallstown, Maryland 21133

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Richard L. Smith

Address

1020 Cromwell Bridge Road 321-5500

City and State

Attorney's Telephone No.:

(410) 296-0200

ESTIMATED LENGTH OF HEARING - 1/2HR. - 1HR. - 1 1/2HR. - 2HR. - 3HR. - 4HR. - 5HR. - 6HR. - 7HR. - 8HR. - 9HR. - 10HR. - 11HR. - 12HR. - 13HR. - 14HR. - 15HR. - 16HR. - 17HR. - 18HR. - 19HR. - 20HR. - 21HR. - 22HR. - 23HR. - 24HR. - 25HR. - 26HR. - 27HR. - 28HR. - 29HR. - 30HR. - 31HR. - 32HR. - 33HR. - 34HR. - 35HR. - 36HR. - 37HR. - 38HR. - 39HR. - 40HR. - 41HR. - 42HR. - 43HR. - 44HR. - 45HR. - 46HR. - 47HR. - 48HR. - 49HR. - 50HR. - 51HR. - 52HR. - 53HR. - 54HR. - 55HR. - 56HR. - 57HR. - 58HR. - 59HR. - 60HR. - 61HR. - 62HR. - 63HR. - 64HR. - 65HR. - 66HR. - 67HR. - 68HR. - 69HR. - 70HR. - 71HR. - 72HR. - 73HR. - 74HR. - 75HR. - 76HR. - 77HR. - 78HR. - 79HR. - 80HR. - 81HR. - 82HR. - 83HR. - 84HR. - 85HR. - 86HR. - 87HR. - 88HR. - 89HR. - 90HR. - 91HR. - 92HR. - 93HR. - 94HR. - 95HR. - 96HR. - 97HR. - 98HR. - 99HR. - 100HR. - 101HR. - 102HR. - 103HR. - 104HR. - 105HR. - 106HR. - 107HR. - 108HR. - 109HR. - 110HR. - 111HR. - 112HR. - 113HR. - 114HR. - 115HR. - 116HR. - 117HR. - 118HR. - 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receipt**receipt**

MICROFILMED

MICROFILMED

Date: 7/2/93

(410) 887-3353

(410) 887-3355

LindaLee M. Kuszmaul
Legal Secretary

[illegible]

D-4 TRANSITION AREA STANDARDS

9/19/70 — 9/25/81

Bill 100-70 Bill 124-81

92-373A

1B01.2.C.4. Minimum Area Standards in Residential Transition Areas. Dwellings (no other principal building permitted) and accessory buildings in residential transition areas, if designated under Subparagraph 1B01.1.B.1 as Group I, Group II, or Group III use, shall be situated on lots in accordance with the standards set forth in the table below and with the provisions of Section 400, respectively. No more than one principal building shall be situated on any lot in such a residential transition area.

Residential Transition Area in which Lot is Located	Minimum Lot Area, in Square Feet	Minimum Lot Width, in Feet	Minimum Lot Depth, in Feet	Minimum Setback, in Feet	Minimum Side Yard Setback, in Feet	Minimum Rear Yard Setback, in Feet	Minimum Front Yard Setback, in Feet	Minimum Side Yard Setback, in Feet	Minimum Rear Yard Setback, in Feet	Minimum Front Yard Setback, in Feet
Group I use	5,000	30	120	10	10	10	10	10	10	10
Group II use	7,500	30	120	10	10	10	10	10	10	10
Group III use	10,000	30	120	10	10	10	10	10	10	10

Provided, however, that alternative standards of lot or side-yard width may be applied to non-rectangular lots if such standards have been adopted under the authority of Section 504. [Bill No. 100, 1970.]

less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above. [B.C.Z.R., 1955.]

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width at the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

- That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]
- That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]
- That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955.]

In case of complete or partial casualty loss by fire, windstorm, flood, or otherwise of an existing dwelling that does not comply with height and/or area requirements of the zone in which it is located, such dwelling may be restored provided area and/or height deficiencies of the dwellings are before the casualty are not increased in any respect, and such restoration is subject to the limitations imposed by section 104.2 of the Baltimore County Zoning Regulations. [B.C.Z.R., 1955; repealed by Bill No. 124, 1991; re-enacted by Bill No. 214, 1991.]

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1955.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

307.1--The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential

REV 2/92

3-3

density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said Regulations, and only in such manner as to grant relief without injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for a reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. [B.C.Z.R., 1955; Bill No. 107, 1963; No. 32, 1968; Bill No. 12, 1992.]

307.2--In addition to the authority and limitations set forth in Section 307.1 above, within the Chesapeake Bay Critical Area, the Zoning Commissioner, or upon appeal, the Board of Appeals of Baltimore County, shall have the power to authorize the expansion of those uses in existence at the time of the effective date of this subsection; any order granting a variance pursuant to this subsection shall contain findings so fact which shall include the following: [Bill No. 32, 1988.]

- That special conditions or circumstances exist that are peculiar to the land or structure within the critical area of the county; [Bill No. 32, 1988.]
- That strict compliance with the critical area regulations would result in practical difficulty, unreasonable hardship or severe economic hardship; [Bill No. 32, 1988.]
- That strict compliance with the critical area regulations will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area of the county; [Bill No. 32, 1988.]
- That the granting of a variance will not confer upon an applicant any special privilege that would be denied by the critical area regulations to other lands or structures within the critical area of the county; [Bill No. 32, 1988.]
- That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property; [Bill No. 32, 1988.]

REV 2/92

3-4



390

1020 Cromwell Bridge Road
Baltimore, MD 21204-3396
(301) 321-5500
Direct Dial Number

(410) 321-5557

March 18, 1992

Mr. John Alexander
Baltimore County
Office of Zoning
111 West Chesapeake Avenue
Towson, MD 21204

Dear John:

Subject: Olde Mill Estates - Section One
KCI Job Order No. 01-21338G

This is in response to your request concerning the density calculations for the Second Amended Final Development Plans for Section One. We have performed a lot count of all the record plats within the subdivision, which comprises a total of six (6) sections.

The actual lot count by the plats is 128 townhouse lots, and 273 single family lots, for a total of 401 lots. This total is supported by the density plat recorded in E.H.K. Jr. 43-135, of which I have enclosed a copy.

As to the Second Amended Final Development Plan for Section One, the General Notes and the notes for Section One have been revised to reflect the correct number of lots. I am enclosing two sets of the revised plans for your use.

If you have any further questions, please call me.

Very truly yours,

Richard L. Smith
Senior Associate

pek

cc: Mr. Benjamin Bronstein w/enclosure

KCI TECHNOLOGIES, INC.
ENGINEERS AND PLANNERS



1020 CROMWELL BRIDGE ROAD
BALTIMORE, MARYLAND 21204
(301) 321-5500
DIRECT DIAL NUMBER
(410) 321-5557

DESIGN RLS DATE 3/1/92 SUBJECT Olde Mill Estates 10-21338-G
CHECK DATE 3/1/92 DENSITY CHECK SHEET 1 OF 1

DENSITY RAT RECORDED 12-12-78 FOR TOTAL TRACT
TOTAL DENSITY ALLOWED = 401.56 - PROPOSED = 401

PLATS
Rat 1 - Section 1 - 41 Lots + 5 Parcels = 46 Total Lots
2nd Amended Rat 1 - 1 - 46 Lots
Rat 2 - Section 1 - 46 Lots
Rat 3 - Section 1 - 46 Lots
Amended Rat 2 - 2 - 22 Lots
Rat 4 - Section 1 - 44 Lots
Amended Rat Section 1 - 48 Lots
Rat 5 - Section 1 - 48 Lots
Rat 6 - Section 1 - 48 Lots

Townhouses = 128
Single Family = 273
Total = 401

Summary:
Total Number of Townhouse Lots = 128
Total Number of Single Family Lots = 273
Total Number of Recorded Lots = 401

Note:
Excess Density in Section 1 (7 Lots) Transferred to Other Sections.

KIDDE CONSULTANTS, INC.

John 3/8

MEMO from Dick Smith

Enclosed to Mr. "BROOKS"
By Plat of The Actual Lots
Recorded in "Olde Mill
Estates"

Actually, if you look at Section
2, The Area = 15,198 AC. Which
Allows 304 Units yet 53 Acre
Recorded. You have 7 Lots from
Section One & Excess from
Section 5. The Same is True of
The Other Sections.

"Bottom Line" is that With Lot "E-20"
Recorded We Do Not Exceed The
Overall Density Allowed

KIDDE CONSULTANTS, INC.

DESIGN RLS DATE 1/29/92 SUBJECT Lot E-20 - Olde Mill Estates 10-21338-G
CHECK DATE 1/29/92 COMPARISON OF YARD REQUIREMENTS SHEET 1 OF 1

FROM BALTO. CO. ZONING REGULATIONS
PROPERTY TO ZONING "DE 3.5"

MINIMUM REQUIREMENTS - INDIVIDUAL LOT, NOT PART OF A
SUBDIVISION. PER SECTION 1B02.3-C OF THE DCZR.

MINIMUM REQUIREMENTS SAME AS THE FORMER "R-10" REQUIRE-
MENTS ADOPTED IN 1955 & CHANGED TO "DE 3.5" IN 1970

MINIMUM REQUIREMENTS - LOT PART OF SUBDIVISION AFTER 1970. PER
SECTIONS 1B01.2.C.2, 1B01.2.C.3 OF THE DCZR & V.B.3, V.B.6 & V.B.3 OF
THE CMOP ADOPTED PER SECTION 504 OF THE DCZR.

MIN. LOT AREA MIN. LOT WIDTH MIN. FRONT YARD MIN. SIDE YARD MIN. REAR YARD MIN. REAR YARD

Any Lot 10,000 S.F. 70' 30' 10' 15' 30'

Lot E-20 8581 S.F. 60' 32' 10' 15' 30'

DIFFERENCE - 1419 S.F. -20' +2' = = +60'

MINIMUM REQUIREMENTS SAME AS THE FORMER "R-10" REQUIRE-
MENTS ADOPTED IN 1955 & CHANGED TO "DE 3.5" IN 1970

MINIMUM REQUIREMENTS - LOT PART OF SUBDIVISION AFTER 1970. PER
SECTIONS 1B01.2.C.2, 1B01.2.C.3 OF THE DCZR & V.B.3, V.B.6 & V.B.3 OF
THE CMOP ADOPTED PER SECTION 504 OF THE DCZR.

MIN. LOT AREA MIN. LOT WIDTH MIN. FRONT YARD MIN. SIDE YARD MIN. REAR YARD MIN. REAR YARD

Any Lot 10,000 S.F. 70' 30' 10' 15' 30'

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MIN. LOT AREA MIN. LOT WIDTH MIN. FRONT YARD MIN. SIDE YARD MIN. REAR YARD MIN. REAR YARD

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Lot E-20 8581 S.F. 60' 32' 10' 15' 30'

DIFFERENCE - 1419 S.F. -20' +2' = = +60'

** BASED ON HEIGHT TO HEIGHT TO ADJACENT BUILDINGS

390

LAW OFFICES
EVANS, GEORGE AND BRONSTEIN
SUSQUEHANNA BUILDING, SUITE 205
28 WEST SUSQUEHANNA AVENUE
TOWSON, MARYLAND 21204
(301) 296-0004
FAX (301) 296-3719

L. ROBERT EVANS
HARRIS LAMAR DEBBE
BENJAMIN BRONSTEIN
MICHAEL J. ZIMMEL
DOUGLAS A. STUBBS

February 25, 1992

Mr. John Alexander, Zoning Technician
Zoning Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Variance
Lot E-20
Olde Mill Estates, Inc.

Dear Mr. Alexander:

In reference to the above entitled matter I am enclosing the following:

- Three copies of the Petition for Variance.
- Twelve copies of the Plat To Accompany the Petition for Variance.
- Three sealed copies of the lot description prepared by KCI Technologies.
- One copy of 200 scale zoning map.
- Two copies of the First Amended Plat 1, Section 1 of Olde Mill Estates.
- Two copies of the Second Amended Partial Development Plan of Olde Mill Estates dated December 12, 1991.
- My check payable to Baltimore County in the amount of \$175.00.

ENCLOSURE

Mr. John Alexander, Zoning Technician
February 25, 1992
Page 2

Thank you for your patience and kind attention to this matter.

Very truly yours,
EVANS, GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh
Enclosures

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME ADDRESS

Lynn Swanson 2961 Surpachman Ave

Paul Weinstein 4101 Century Towne Rd

Richard L. Smith 1020 Greenway Bridge Rd. 2104

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS

Bill Bralove 4272 Mary Ridge Dr

Paul B. Kirk Rand. MD. 21133

Walter B. Kirk 8646 Winanda Rd

John Sledge Randallstown, MD 21133

John Sledge 4368 Mary Ridge Dr

Ken Smith 8642 Winanda Rd

Randallstown, MD 21133

MICROFILMED

PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS

William Bralove 4272 Mary Ridge Dr. Rand. MD. 21133

Walter B. Kirk 8646 Winanda Rd. 21133

Ronald A. Doughty 4358 Mary Ridge Dr. 21133

John Sledge 4368 Mary Ridge Dr. 21133

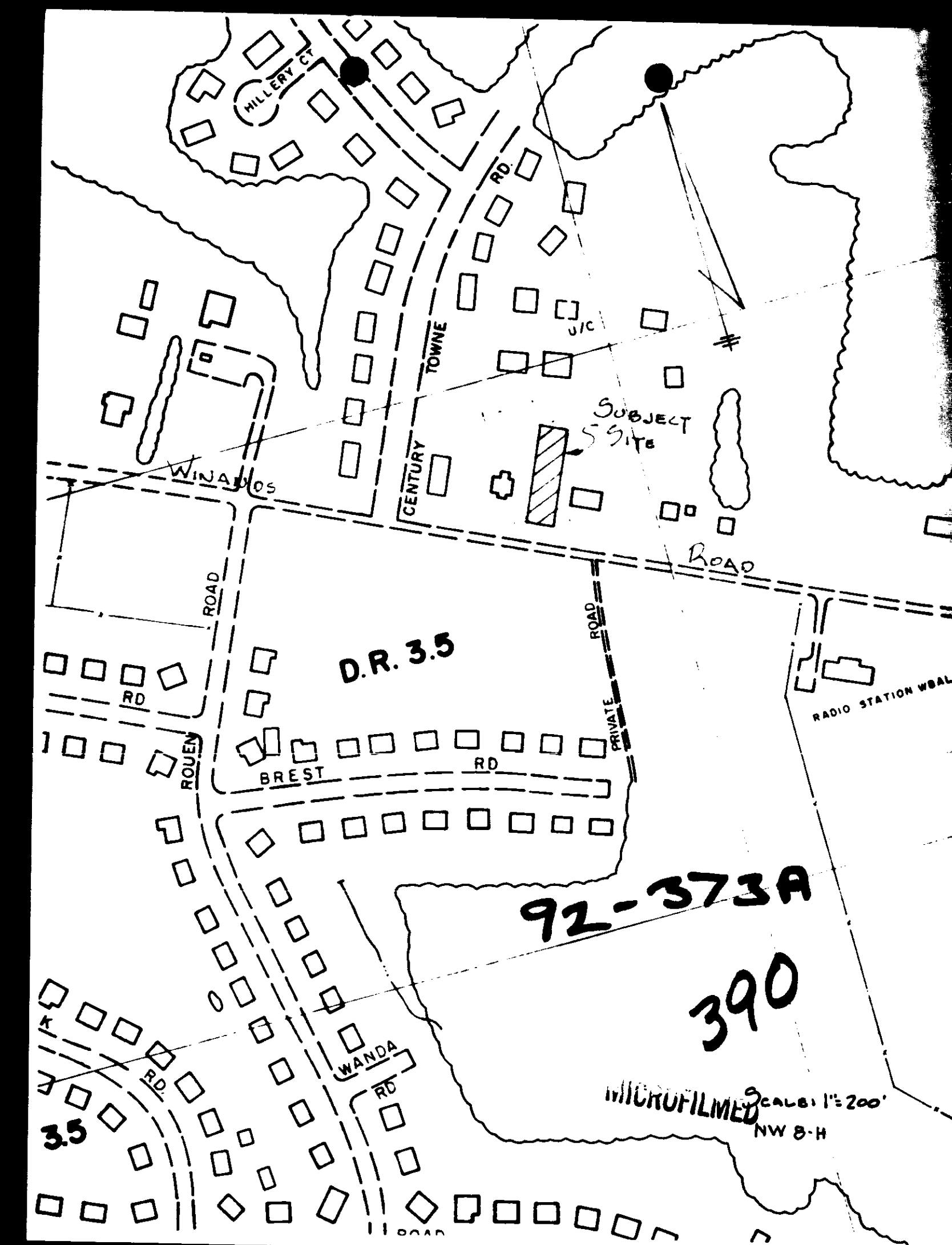
John Sledge 8646 Winanda Rd. Rand. 21133

James P. Jones 4205 Mary Ridge Dr. 21133

Ken Smith 4205 Mary Ridge Dr. 21133

ARCHIBOLD C. LEWIS 2 Hillery Court 21133

MICROFILMED



IN THE MATTER OF * BEFORE THE

OLDE MILL ESTATES, INC. * COUNTY BOARD OF APPEALS

Re: variance on property * OF BALTIMORE COUNTY

* Case no. 92-373-A.

* February 3, 1993.

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., February 3, 1993.

ORIGINAL

Reported by:
C.E. Peatt

BOARD OF APPEALS

Prot. Ex 1

Plot No 3

We, the undersigned, and residents of the area known as Olde Mill Estates, Randallstown, Maryland, oppose any variance decreasing the lot size from 70' (as required by County zoning code) downward to the 50' requested.

name	address	phone
George Swann	4257 Mary Ridge Dr	655-1990
James H. Kirk	24 Hillery Court	582-1461
Harry Schwartz	5 Hillery Ct	581-2134
NA	4204 Mary Ridge Dr	328-5175
John Sledge	4368 Mary Ridge Dr	655-2015
Ken Smith	8642 Winanda Rd	531-2456
William Bralove	4120 Century Towne Rd	655-3099
John Sledge	4368 Mary Ridge Dr	521-3267
Phillip A. Doughty	4209 Mary Ridge Dr	655-2845
C. Brown	4254 Mary Ridge Dr	
Frederic L. Harper	4213 Mary Ridge Dr	655-6490
Reggie Bralove	4225 Mary Ridge Dr	521-3951
John Sledge	4368 Mary Ridge Dr	932-1253

Interested Persons

Kenneth J. Smith 8642 Winanda Rd. Randallstown, MD 21133

Walter B. Kirk 8646 Winanda Rd. Randallstown, MD 21133

Alexander & Ethel Eldridge 4368 Mary Ridge Dr. Randallstown, MD 21133

GEORGE E. BOHIS, JR. 3830 TERMA CIRCLE, RANDALLSTOWN, MD. 21133

Robert M. Jones 4205 Mary Ridge Dr. Randallstown, MD 21133

Kenneth B. Dawson 17 Adventure Ct. Randallstown, MD 21133

William Bralove 4272 Mary Ridge Dr. Randallstown, MD 21133

Prot. Ex 2

May 5, 1992

To: zoning board, Baltimore County

Dear Sirs:

The Old Mill Estates builder is trying to build a house on a lot 70' x 100' on Winanda Road between the house on 8646 and 8642. This lot is adjacent to my house.

I have my serious concern about the construction of this house. The house if constructed would appear quite different from the houses in the neighborhood. Due to its strange appearance it would drastically lower the value of my house.

The house would also have a very negative impact on the value of the houses in the community. This may eventually translate into lower property tax and thus would harm the county.

Due to the odd shape of the house people may even use it as a museum while giving directions to people. Like "When on Winanda Road you find a strange and funny looking house go on block and ..."

I am quite sure that even the builder is aware of this fact that this house would lower the value of houses in the complex. That is the reason that he ~~planned~~ planned to build it at the very end as compared to when he started building the houses in the complex. I am sure if he had built the house in the beginning he would have a hard time to sell the houses in the complex. I would ~~definitely~~ not bought my house.

PARAMIT SHADEV
4184 ADRIANNE WAY
RANDALLSTOWN, MD 21133

10/5

SOMSAK ATTASET
CHUTAMAS ATTASET
4111 CENTURY TOWNE RD
RANDALLSTOWN, MD 21133

SINCE THIS HOUSE WOULD DEGRADE THE VALUE
OF ALL OTHER SURROUNDING HOUSES I DISAPPROVE OF THE
HOUSE BEING BUILT.

THIS LOT IS TOO SMALL TO BUILD THE HOUSE
WHICH DEVELOPER PLANNED TO BUILD. TO AVOID THIS SITUATION, THE
BUILDER HAS TO CHANGE THE PLAN TO BUILD THE HOUSE BY
SIDE WAY (ALLEY) CUT WHICH MAKE IT LOOK UGLY
FOR THE HOLE COMMUNITY.

WE ALL THE NEIGHBORS SURROUNDING THIS
AREA TRY TO OBJECT THIS BUILDER TO BUILD THIS LAST
HOUSE BEFORE THEY MOVE ALL BUSINESS OUT IN THIS
PROJECT.

SINCERELY YOURS,

Chutamas Attaset

MAY 5, 1992

Post 6

Pet Ex #12

KIDDE CONSULTANTS, INC.

DESIGN RLS DATE 1-27-92 SUBJECT LOT E-20-0102 MIN. ESTATES 10.121300-9

CHECK DATE COMPARISON OF YARD REQUIREMENTS SHEET 1 OF 1

FROM DAUTO. CO. ZONING REGULATIONS
PROPERTY IS ZONED "DE 3.5"

MINIMUM REQUIREMENTS - INDIVIDUAL LOT NOT PART OF A
SUBDIVISION. PER SECTION 10 DE 3.5-C OF THE DCZC.

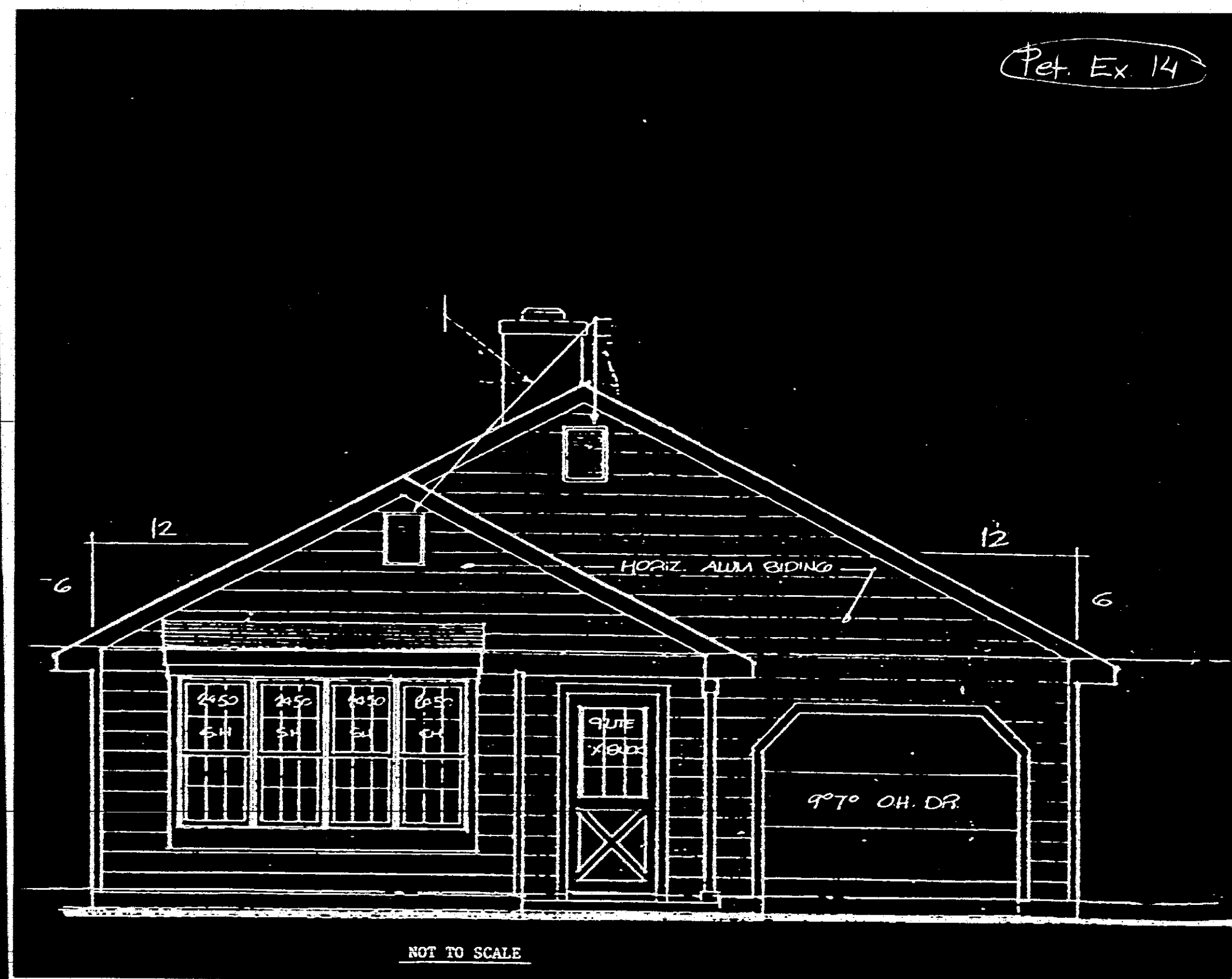
	MIN. LOT AREA	MIN. LOT WIDTH	MIN. FRONT YARD	MIN. WOOD 100' SIDE YD.	MIN. WOOD 150' SIDE YD.	MIN. REAR YARD
Any Lot	10,000 SF	70'	30'	10'	15'	30'
Lot E-20	8,881 SF	60'	32'	10'	15'	30'
Difference	-11,119 SF	-10'	+2'	=	=	+0'

* MINIMUM REQUIREMENTS SAME AS THE FORMER "R-10" REQUIREMENTS
ADOPTED IN 1955 & CHANGED TO "DE 3.5" IN 1970

MINIMUM REQUIREMENTS - LOT PART OF SUBDIVISION AFTER 1970. PER
SECTIONS 10 DE 1.2, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 OF THE DCZC.

INTERIOR LOT	0	0	25'	10' ***	15' ***	30'
LOT E-20	0	0	32'	10' ***	15' ***	30'
DIFFERENCE	=	=	+7'	=	=	+60
EXTERIOR LOT (ALONG TRACT BOUNDARY)	0	0	25'	30' No Windows	35' WITH Windows	30'
LOT E-20	0	0	32'	10'	15'	30'
DIFFERENCE	=	=	+7'	-20'	-20'	+60

** BASED ON HEIGHT TO HEIGHT TO ADJACENT BUILDINGS

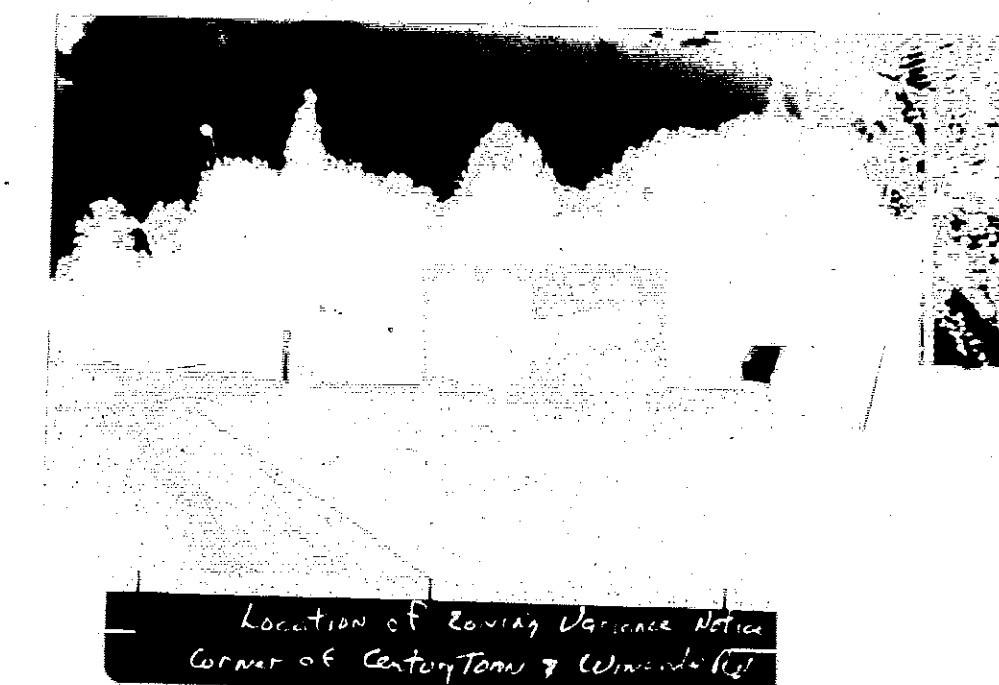
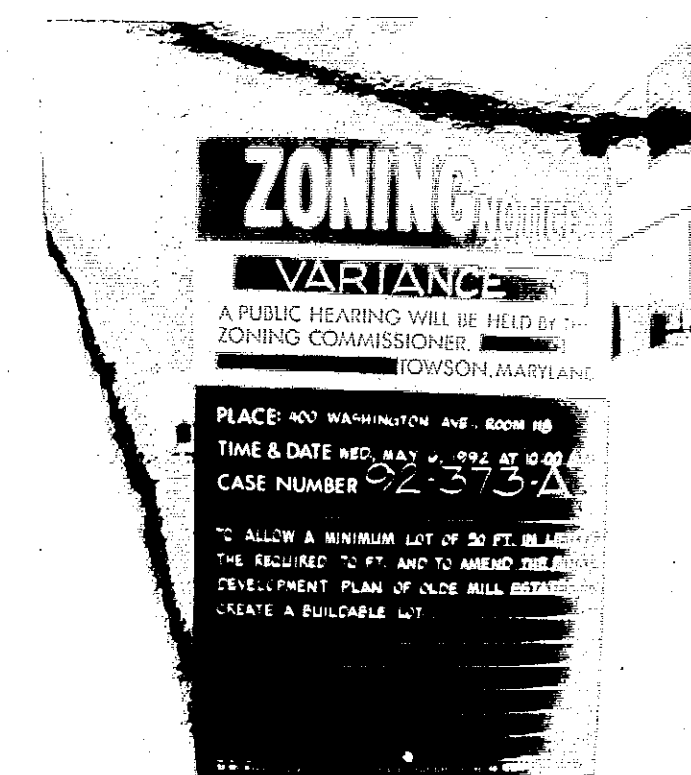


Pet Ex 14

Photographs
submitted by
Protestants
in case
92-373-A

1A-C

4A-C



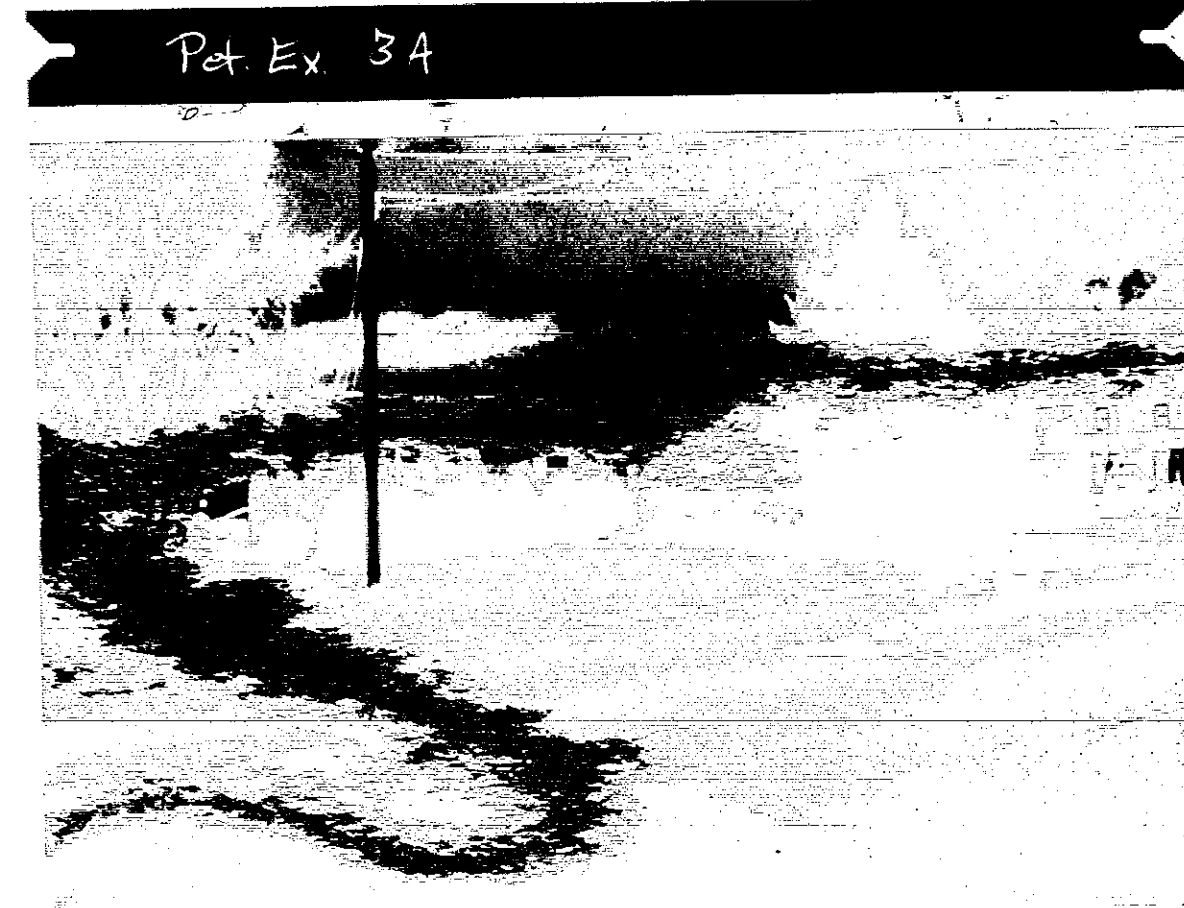
Location of Existing Variance Notice
Corner of Century Towne & Williams Rd



Location of Existing Notice
Century Towne Rd
on Williams Rd

92-373-A
CBA EXHIBITS
OLDE MILL ESTATES

Pets 5A-5C (photos)
PETER'S 3a & b }
4a & b } photos
5a & b }
6a & b }



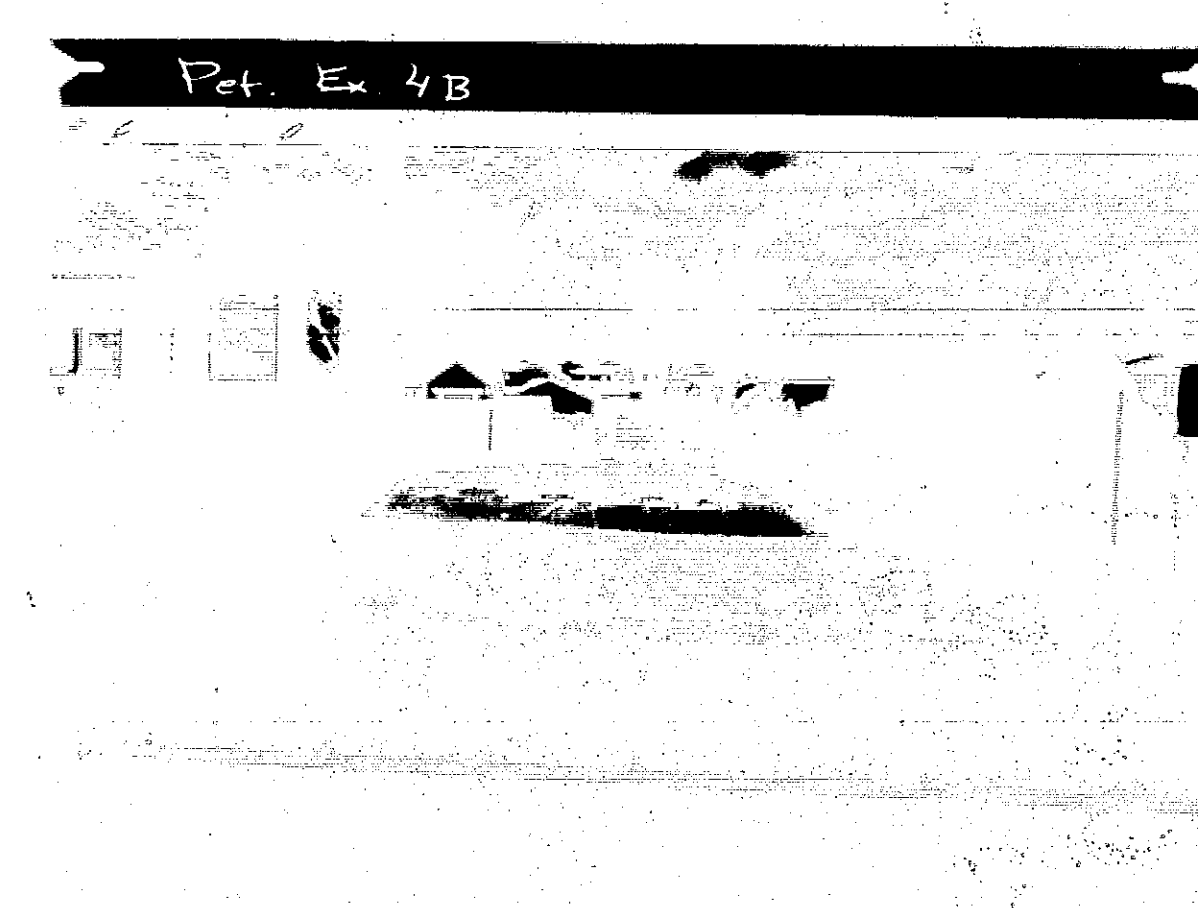
Pet Ex 34



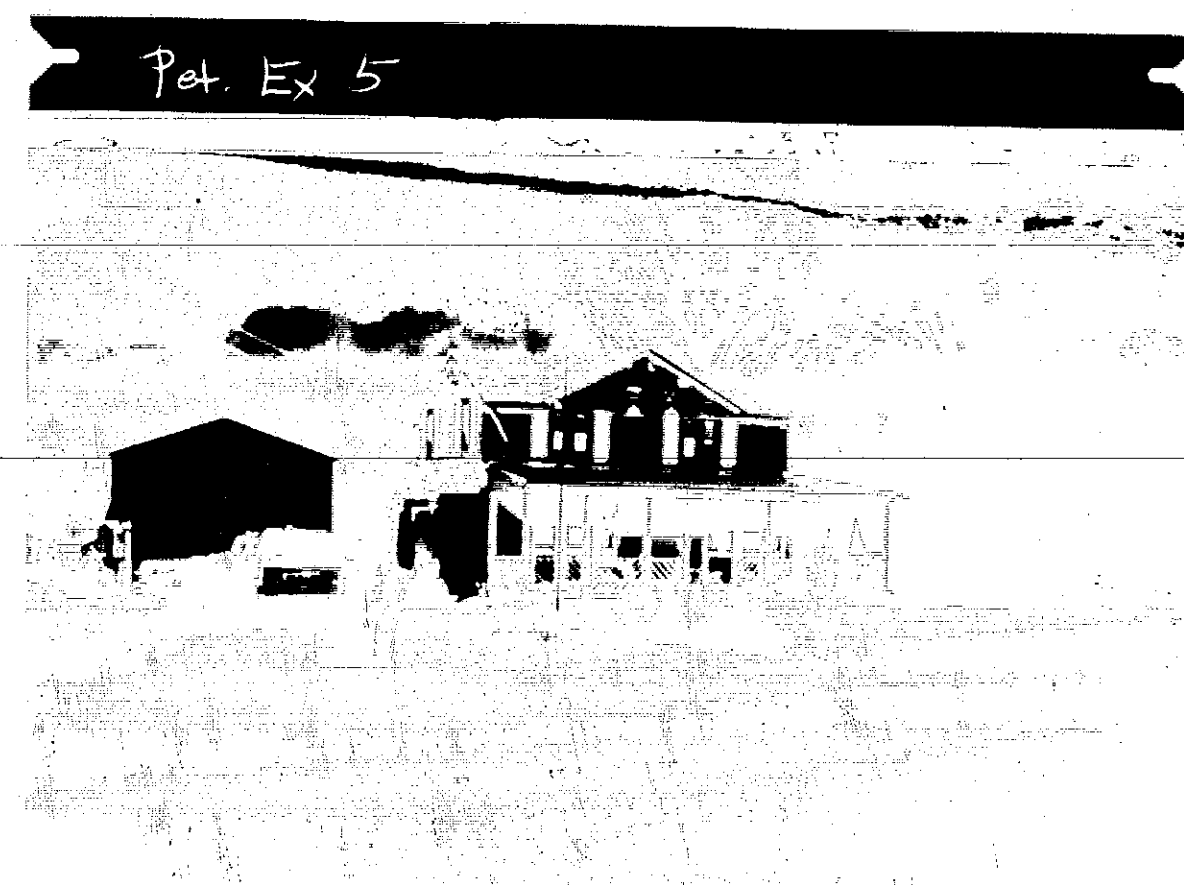
Pet Ex 35



Pet Ex 4A



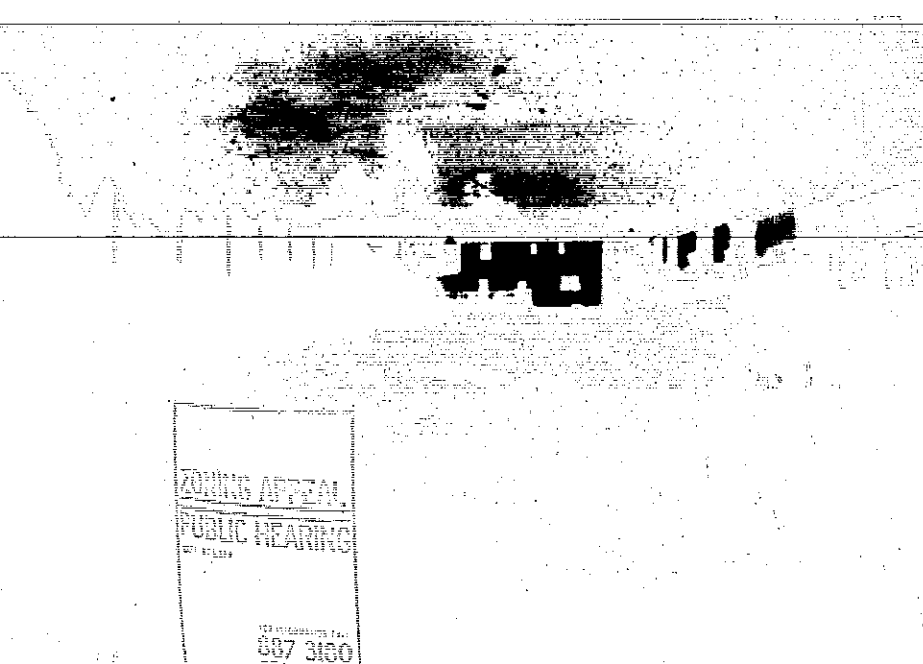
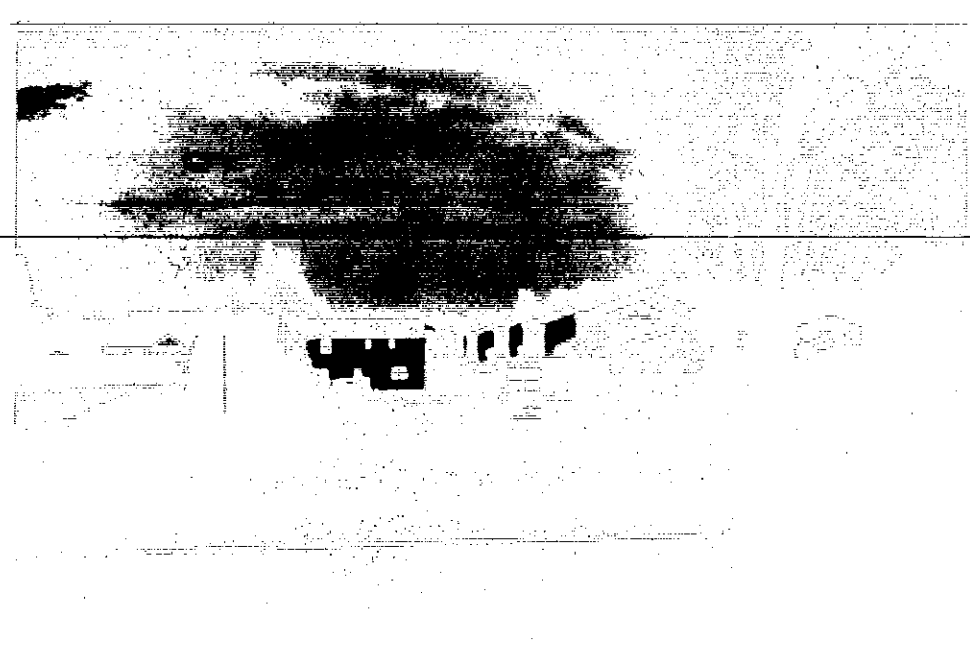
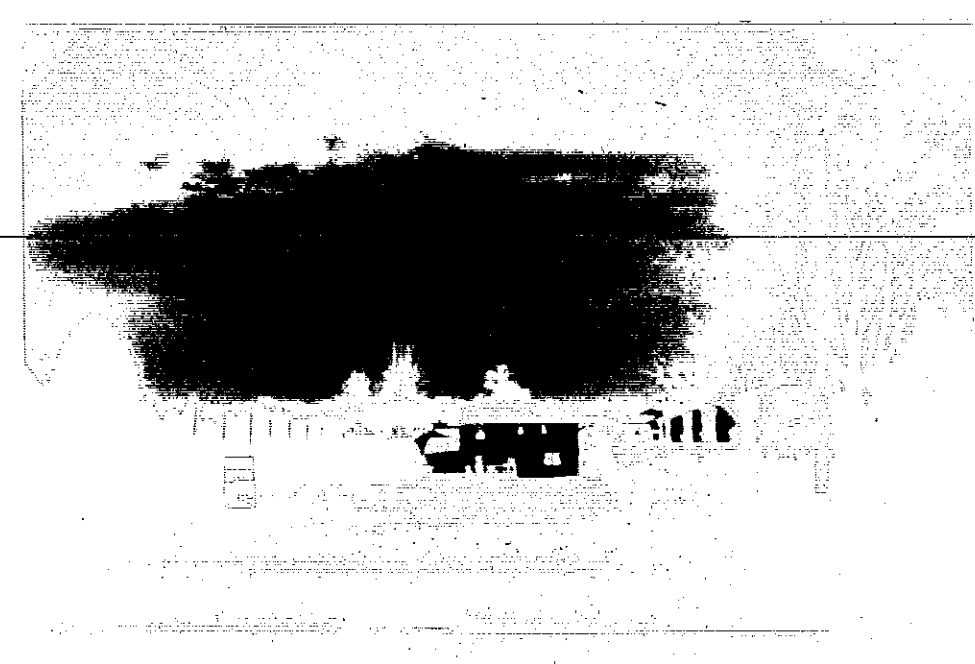
Pet Ex 4B



Pet Ex 5



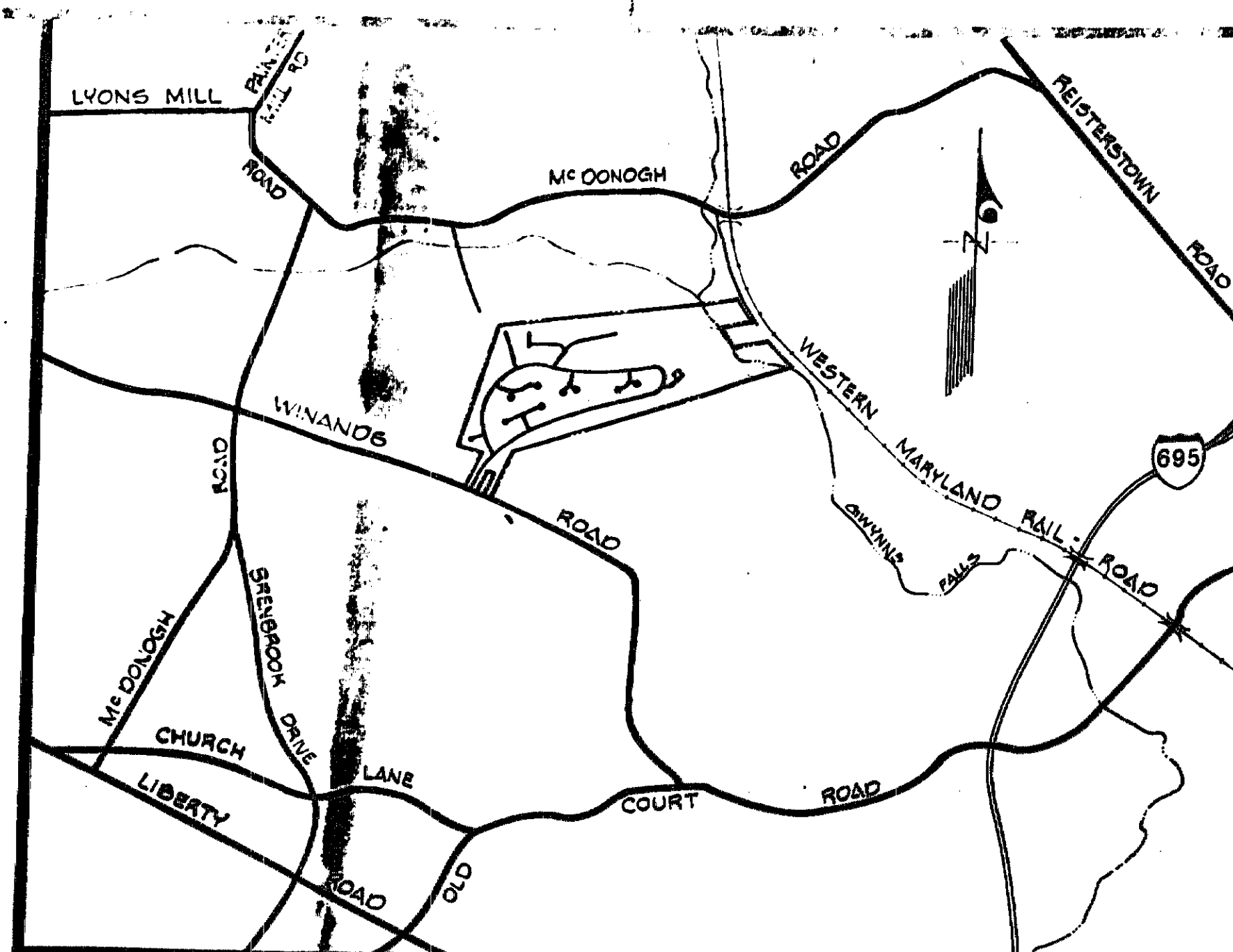
Pet Ex 6



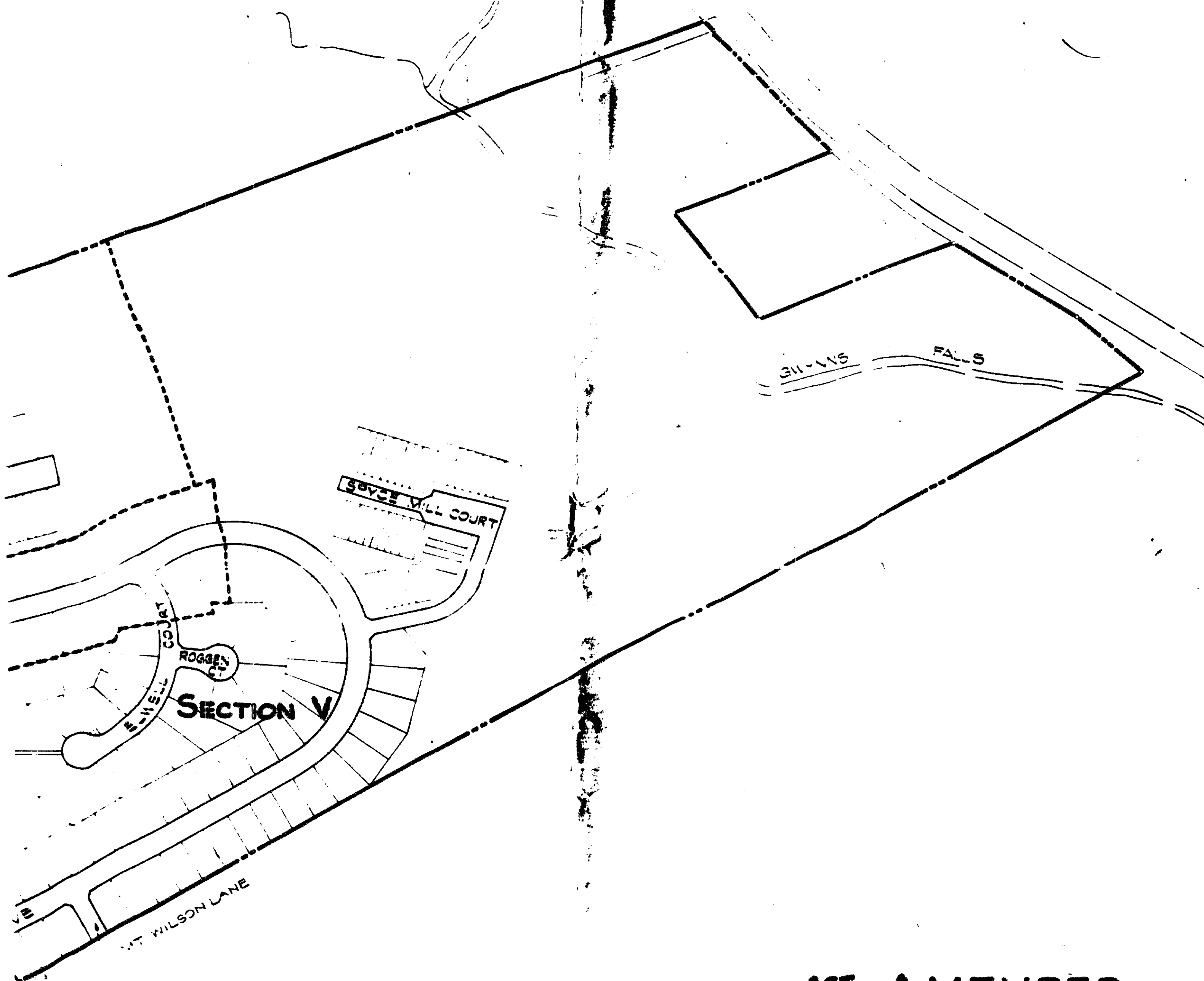
ZONING ADJUDICATORY
HEARING
887 3100

1. THE "PROVISIONS" SECTION OF THIS PARTIAL DEVELOPMENT PLAN IS NOT INTENDED TO BE UTILIZED AS THE DEVELOPMENT PLAN FROM WHICH BUILDING APPLICATIONS MAY BE APPROVED OR ISSUED. ITS PURPOSE IS TO PROVIDE THOSE WHO PURCHASE LOTS WITHIN 300' THEREOF WITH A REASONABLE UNDERSTANDING AS TO HOW THE DEVELOPER WILL IMPROVE ALL ADJOINING VACANT LAND THAT LIES WITHIN 300 FEET OF THEIR HOME.
2. THE DIMENSIONED BOUNDARIES OF THE "PROVISIONS" SECTION* AS INDICATED HEREON, ARE NOT INTENDED TO SEPARATE IT FROM THE OVERALL APPROVAL OF THIS PARTIAL DEVELOPMENT PLAN. ANY DEVIATION FROM THIS PARTIAL DEVELOPMENT PLAN, INCLUDING THE "PROVISIONS" SECTION MUST BE APPROVED IN CONFORMANCE WITH SECTION 16-10-01.
3. APPROVAL OF THE "PROVISIONS" SECTION* IS NOT BASED ON FINAL ENGINEERED PLANS. HOWEVER, IT IS INTENDED TO ESTABLISH: THE FINAL LOCATION, HEIGHT, USE, AND DENSITY OF BUILDINGS OR THEIR ENVELOPES TO WITHIN 25' OF THEIR FINAL ENGINEERED LOCATION; THE LOCATION AND TYPE OF EXISTING VEGETATION THAT IS TO BE RETAINED; SCREENING, PARK AREAS AND DRIVES TO THE EXTENT POSSIBLE SO AS TO COINCIDE WITH THEIR FINAL OR PERMANENT IMPROVEMENTS AND OTHER PERMITTED AMENITIES.
4. AT THE TIME OF BUILDING PERMIT APPLICATIONS, THE "PROVISIONS" SECTION* OF THE DEVELOPMENT PLAN MUST BE UPDATED TO COMPLY IN ALL RESPECTS TO THE FORM CONTENTS REQUIRED BY SECTION 1.1 OF THE ORDER OF THE ZONING REGULATIONS.

ALL LOTS SHOWN HEREON ARE SUBJECT TO PANHANDLE
LOT RIGHT-OF-WAY AGREEMENTS TO BE RECORDED
AMONG LAND RECORDS OF BALTIMORE COUNTY
SIMULTANEOUSLY WITH PLATS OF RECORD.



LOCATION MAP
SCALE: 1"=2000'



REP

PLAN
SCALE: 1" = 200'

SECTION FIVE

2 ND. ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

OWNER AND DEVELOPER

OLDE MILL ESTATES INCORPORATED

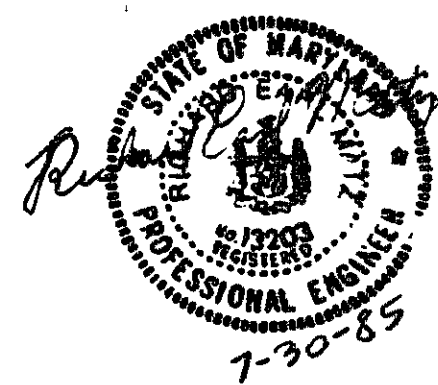
51 GLEN RIDGE ROAD
GLEN BURNIE, MARYLAND 21061
I.D.C.A. No. 77-100

ENGINEERS, LAND PLANNERS & SURVEYORS

KIDDE CONSULTANTS, INC.

1020 CROMWELL BRIDGE ROAD
BALTIMORE, MARYLAND 21204
(301) 321-5500

Prot. Ev 4



1. LOT 27 UNKNOWN
2. LOT 28 DIVISION FOLLOWING
3. 28. 21 27 FROM 18.0' TO 20.0'
4. 34 FROM 20.0' TO 18.0'
5. 33 FROM 20.0' TO 25.25'
6. 31 FROM 23.25' TO 20.0'
7. HAVE BEEN SOLD 4 IN 200' OF ABOVE LOT DIVISIONS

DATE: 7-23-85 SHEET: 10
01-2379-1312